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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO 37 OF 2015

[UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA
IN THE NATURE OF PUBLIC INTEREST LITIGATION]

1 | 52
2.2.15

IN THE MATTER OF:

Mathew Thomas

...Petitioner

Versus

Union of India & Ors.

... Respondents

WITH

I.A. NO. _____ OF 2014

APPLICATION FOR EX-PARTE AD-INTERIM STAY

PAPER BOOKS

(VOLUME - I)

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ADVOCATE FOR PETITIONER: MS AISHWARYA BHATI

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[illegible]

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A

PROFORMA FOR FIRST LISTINGSECTION : *PIL***The case pertains to** (Please tick/check the correct box):

<input checked="" type="checkbox"/>	Central Act (Title)	:	a. Citizenship Act, 1955 b. Census Act, 1948, The c. Registration of Birth and Deaths Act, 1969
<input checked="" type="checkbox"/>	Section (s)	:	a) Section 14-A of Citizenship Act, 1955 b) Section 15 of the Census Act, 1948,
<input checked="" type="checkbox"/>	Central Rule (Title)	:	Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 a) Rule 125 & Rule 180(A), b) Order VII Rule 1 of the Code of Civil Procedure
<input checked="" type="checkbox"/>	Rule No(s)	:	N.A.
<input checked="" type="checkbox"/>	State Act (Title)	:	N.A.
<input checked="" type="checkbox"/>	Section	:	N.A.
<input checked="" type="checkbox"/>	State Rule (Title)	:	N.A.
<input checked="" type="checkbox"/>	Rule No(s):	:	N.A.
<input checked="" type="checkbox"/>	Impugned Interim Order	:	<i>N.A</i>
<input checked="" type="checkbox"/>	Impugned Final Order/Decree	:	N.A.
<input checked="" type="checkbox"/>	High Court (Name)	:	N.A.
<input checked="" type="checkbox"/>	Names of Judges	:	N.A.
<input checked="" type="checkbox"/>	Tribunal/ Authority (Name)	:	N.A.

1. Nature of Matter: ☒ Civil ☒ Criminal
2. (a) Petitioner/ Appellant (s) : Mathew Thomas
 (b) E-mail ID : N.A.
 (c) Mobile Phone Number : N.A.
3. (a) Respondent (s) : Union of India & Ors.

AI

- (b) E-mail ID : N.A.
 (c) Mobile Phone Number : N.A.
4. (a) Main Category : 08 PIL matter
 Classification
 (b) Sub Classification : 0812 others
5. Not to be listed before : N.A.
6. Similar/ Pending Matter : N.A.
7. **Criminal Matters: N.A.**
 (a) Whether accused/convicted ☐ Yes ☒ No
 has surrendered
 (b) FIR No. & Date : N.A.
 (c) Police Station : N.A.
 (d) Sentence : N.A.
 Awarded
 (e) Sentence : N.A.
 Undergone
8. **Land Acquisition Matters: N.A.**
 (a) Date of Section 4 : N.A.
 Notification
 (b) Date of Section 6 : N.A.
 Notification
 (c) Date of Section 17 : N.A.
 Notification
9. **Tax Matters:** Since the tax effect : N.A.
10. **Special Category** (first Petitioner : N.A.
 only)

<input checked="" type="checkbox"/>	Senior Citizen > 65 years	<input checked="" type="checkbox"/>	SC/ST	<input checked="" type="checkbox"/>	Woman/Child
<input checked="" type="checkbox"/>	Legal Aid Case	<input checked="" type="checkbox"/>	Disabled	<input checked="" type="checkbox"/>	In Custody

11. Vehicle Number (in case of motor Accident Claim matters): N.A.
12. Decided cases with citation : N.A.

Date: 29-12-2014

[Ms. Aishwarya Bhati]
 Advocate for the Petitioner
 Registration No. 1600
 Email : bhatiassociates@gmail.com

SYNOPSIS

B

That, the instant Writ Petition is being filed by the above named Petitioner, *inter alia*, seeking a writ in nature of *certiorari* quashing the Gazette Notification (bearing No. A-43011/02/2009- Admn I) dated 28.01.2009 issued by Planning Commission, Government of India / Respondent No, and writ in the nature of *mandamus* directing the Union of India (Respondent No.1), Planning Commission (Respondent No.2) and the Unique Identification Authority of India (hereinafter referred to as "UIDAI")/Respondent No.3 to destroy all the information collected pursuant to the said impugned notifications. Pursuant to the said notifications, the Respondent No.3, which is not even a statutory body has rolled out Unique ID (UID) scheme called "*Aadhaar*" Scheme, for collection of personal data of residents of India, and various governmental bodies have made availment of essential services as well as withdrawal of salary contingent upon possession of Aadhaar card.

The said collection of data is being done by agencies, whose security credentials are not scrutinized thoroughly and the *Aadhaar* card is being issued even to illegal migrants in India, enabling them to avail services of Government of India, which are meant only for citizens of India and not for mere residents. The avowed objectives of UID scheme are itself farcical and the entire exercise is

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nothing but colossal waste of public money and exposes India's vulnerabilities, and in fact for introduction of the UID project which affects and abridges the rights of citizens, the Respondent No.1 did not have sufficient material before it to come to the conclusion that such an incursion on the rights of the citizens was necessary. The Petitioner has further prayed for the declaration that Section 14-A of the Citizenship Act, 1955 is *ultravires* the Constitution, in that the collection of personal data under the National Population Register in terms of Section 14-A of the Citizenship Act, 1955 is violative of Article 14 and Articles 21 to the Constitution of India and it suffers from the vice of excessive delegation in that it does not prescribe to what extent private information of citizens shall be required and leaves it to the discretion of executive.

It is submitted that the said act of establishment of Respondent No.3 could not have been done by a mere approval of the "Empowered Group of Ministers", which is not even a body recognized under the Constitution of India. All acts affecting rights and liberties of an individual are to be necessarily backed by law, legislated by Parliament. In the instant, neither the creation of the Planning Commission nor the creation of Respondent No.3 / UIDAI under its aegis is products of legislative process.

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The Petitioner is also aggrieved by the conduct of the Respondents that jeopardize the privacy of citizens and making the availment of essential services rendered by the State upon possession of Aadhaar Card or Unique Identification (UID) card. The objective of UID to have a "universal" database of all the residents of India cannot be achieved until and unless the Government encroaches upon the fundamental and core private rights, and therefore, UIDAI is required to be statutorily provided. There are no provisions in the UIDAI to even apprise the people of India of the consequences of such enrollment and how it affects legal rights of individuals

That, on 03.12.2010, the National Identification Authority of India Bill, 2010 was introduced in the Lok Sabha. It is submitted that the very fact that the said Bill had been introduced goes to show that Respondents themselves are mindful that UIDAI requires a statutory basis. Despite the fact that the Respondent No.1's own case has been that a statute is required the Respondent No.1 is proceeding with the enrollment process collective private and personal information of all citizens including army officers, government servants and every other resident of India.

Despite order dated 23.09.2013 passed by this Hon'ble Court, the Respondent No.1 has not changed its enrollment

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process to sift out illegal immigrants from enrolment process, and despite order dated 24.03.2014 passed by this Hon'ble Court, the Respondent No.1 and various state governments are making the enrolment into Aadhaar scheme a mandatory requirement by indirect methods such as making person's attendance linked to UID number.

Without checks and balances and utter disregard of Constitutional morality and principle of Constitutionalism, the Respondent No.1, 2 and 3 are proceeding with the Aadhaar Scheme which is wholly unsustainable and laden with fraud on the people of India.

LIST OF DATES

03.09.1948 The Census Act, 1948 was enacted to provide for certain matters in connection with taking census. It is pertinent to note that Section 15 of the Census Act, 1948, expressly makes the information that is recorded pursuant to the Census Act, 1948 "not open to inspection nor admissible in evidence."

15.03.1950 The Planning Commission was established by a resolution dated 15.03.1950. The Planning Commission is neither a statutory body or a Constitutional body, and its

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mandate being only to co-ordinate and plan, its functioning does not affect any fundamental right.

30.12.1955 The Citizenship Act, 1955 was enacted to provide for acquisition and determination of citizenship in India.

31.05.1969 The Registration of Birth and Deaths Act, 1969 was enacted to provide for registration of regulation of births and deaths and matters connected therewith.

20.07.1999 In the aftermath of the Kargil war, the Subrahmanyam Committee was set up to look into what went wrong and review events leading up to the war. This appears to be first idea of having national identity cards for citizens, initially restricted to border districts is traceable to this Committee.

03.12.2004 Through an amendment made to the Citizenship Act, 1955 which came into effect from 03.12.2004, Section 14-A was added which provided for compulsory registration of every citizen of India and the issuance of national identity card. It further also provided for the maintenance of a National

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Register of Indian Citizens ("NRoIC") and for that purpose establish a National Registration Authority.

However, the Registrar General and Census Commissioner of India are engaged in the creation of the National Population Register ("NPR") and issuance of Multi-purpose National Identity Cards to citizens of India. The Registrar General is appointed under Section 3(1) of the Registration of Births and Deaths Act, 1969, and who is empowered by Section 14-A of the Citizenship Act, 1955 to compulsorily register citizen should the Central Government so decide. The National Register of Indian Citizen (hereinafter "NRoIC"), provided for in the Citizenship Act has therefore metamorphosed into National Population Register, and, since, the preparation of NPR is being done not under the Census Act, 1948, the protection provided for under Section 15 of the Census Act is absent in this case.

H

It is relevant to state that NPR is not the same as NRoIC.

- 03.03.2006 As per information available on the website of Respondent No.3, the concept of a unique identification card has been traced back to 03.03.2006, when the administrative approval for the project- "Unique ID for Below Poverty Line (BPL) families" was given by the Department of Information Technology, Ministry of Communications and Information Technology, Government of India.
- 03.07.2006 Subsequently, a Processes Committee was set up, under the chairmanship of Dr. Arvind Virmani, Principal Adviser, Planning Commission to suggest processes for updation, modification, addition and deletion of date fields from the core database to be created under the Unique ID for BPL project.
- 04.12.2006 An empowered group of Ministers ("EGoM") was constituted to collate two schemes- the National Population Register under the

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Citizenship Act, 1955 and the Unique Identification Number Project.

30.08.2007 A "Strategic Vision on the UIDAI Project" was prepared and submitted to this Committee by M/S Wipro Ltd (Consultant for the design phase and program management phase of the Pilot UIDAI project). In the Seventh Meeting of the Process Committee on 30.08.2007 it was decided to furnish to the Planning commission a detailed proposal based on the resource model for seeking its "in principle" approval. The Process Committee was granted 'in principle' approval for creation of UIDAI by an executive order under the aegis of the Planning Commission as an "attached office" of the Commission.

27.11.2007 First meeting of the EGoM was held. In the said meeting EGoM recognized the need for creating an identity related database regardless of whether the database is created based on *de-novo* collection of individual data or already existing data such as voter list

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28.01.2008 The second meeting of the EGoM was held and in this meeting the proposal to establish UIDAI/Respondent No. 3 under the aegis of the Planning Commission/Respondent No. 2 was approved

07.08.2008 The third meeting of the EGoM was held, wherein the Planning Commission placed before the EGoM a detailed proposal for setting up UIDAI. It appears that in the said meeting, 'certain issues' were raised by the members with relation to the UIDAI, which referred the matter to a Committee of Secretaries to examine and give its recommendations to the EGoM to facilitate a final decision.

04.11.2008 The fourth meeting of the EGoM was held, and, *inter alia*, it was decided by EGoM that:

(a) Initially the UIDAI may be notified as an executive authority and investing it with statutory authority could be taken up for consideration later at an appropriate time.

(b) UIDAI may limit its activities to creation of the initial database from the electoral roll/EPIC data. UIDAI may however additionally issue instructions to agencies

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that undertake creation of databases to ensure standardization of data elements.

(c) UIDAI will take its own decision as to how to build the database.

(d) UIDAI would be 'anchored' in the Planning Commission for five years after which a view would be taken as to where the UIDAI would be located within Government.

Approval to the constitution of the State UIDAI Authorities simultaneously with the Central UIDAI with a core team of three personnel

22.01.2009 The Cabinet Secretary to the Government of India, in pursuance of the decisions of the EGoM considered the proposal submitted by the Department of Information Technology regarding the governance structure and recommended that the notification for constitution of the UIDAI should be issued immediately and that a Core Team to be put in place.

28.01.2009 The Unique Identification Authority of India ("UIDAI") was constituted and notified vide Gazette Notification (bearing No. A-

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43011/02/2009-Admn I) dated 28.01.2009
issued by the Planning Commission,
Government of India/ Respondent No. 2

April, 2010 UIDAI/ Respondent No.3 prepared UIDAI
Strategy Overview. The said report in
Chapter 9, *inter alia*, categorically stated
various Political and Sustainability Risks
involved.

03.12.2010 The National Identification Authority of India
Bill, 2010 was introduced in the Lok Sabha
with an objective to provide for the
establishment of the National Identification
Authority of India for the purpose of issuing
identification numbers to individuals
residing in India and to certain other classes
of individuals and manner of authentication
of such individuals to facilitate access to
benefits and services to such individuals to
which they are entitled.

19.01.2011 By a letter dated 19.01.2011, Member of
Parliament (Rajya Sabha) Justice Dr. M.
Rama Jois expressed his surprise as to lack
of propriety as the Respondent No.3 under
the aegis of Respondent No.2 was proceeding

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to roll out Aadhaar scheme even though the National Identification Authority of India Bill, 2010 was pending.

21.07.2011 The Petitioner had sought information with regard to UIDAI approved scanners with which biometric data is collected are based on foreign private company technology, of UIDAI's contractors and foreign private companies whose software UIDAI has contracted to use. It can be seen that Respondent No.3, UIDAI is deliberately hiding information about the foreign MNC contractors from Respondent No.3's Reply No. F. 12013/13/2011/RTI-UIDAI dated 21.07.2011 issued by the UIDAI Office of the Planning Commission at New Delhi, Delhi to one of the RTI queries stating that "There is no way of verifying the country of origin of the companies"

03.12.2011 The National Identification Authority of India Bill, 2010 was referred to the Parliamentary Standing Committee on Finance, which prepared a report which was presented to Lok Sabha on 13.12.2011 and was laid in

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Rajya Sabha on the same date. The Committee stated that linking biometric information with personal information, without amendment to the Citizenship Act, 1955 or Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, may be beyond the scope of subordinate legislation and requires detailed examination by Parliament.

Further the Committee was also categorical in observing that the issues of confidentiality, investigation, unauthorized disclosure, imposition of obligation to disclose and security of data collected "should be addressed by law and attract penalties."

03.07.2012 The petitioner had filed O.S. No. 8181 of 2012, at the City Civil Court, Bangalore against UIDAI and the Planning Commission to declare the UID scheme as illegal. The Learned Judge dismissed the suit under Order VII Rule 11 with costs vide order dated 03.07.2012, *inter alia*, on the ground that Aadhaar was a voluntary scheme. The

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petitioner and his co-plaintiff had filed Regular First Appeals No. 1780 of 2012 and 1825 of 2012 in the High Court of Judicature of Karnataka. It is pertinent to mention that the Petitioner has taken steps to withdraw the Regular First Appeal No. 1825 of 2012.

The learned sessions judge having dismissed the original suit O.S. No. 8181 of 2012 under Order VII Rule 11 with costs and indicated to the Petitioner that the jurisdiction for enforcing fundamental rights rests only with the High Court or this Hon'ble Court, since the suit involved adjudication of fundamental rights, which could not be adjudicated by the trial court, the Petitioner has approached this Hon'ble Court.

06.12.2012 The 62nd Report of the Standing Committee on Finance presented to the Parliament on 06.12.2012 expressed its dissatisfaction that the enrolment process of Aadhaar was underway despite the fact that the same had not be passed by the Parliament. Similar

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concerns were expressed in 53rd and 69th
Reports of the Standing Committee.

20.12.2012 The Government of NCT of Delhi has issued
an order dated 20.12.2012 bearing NO.
F.10.(6)/ CCS/DivCom/HQRS/5130-5131
by which the Government of NCT of Delhi
made it compulsory to mention Aadhaar
Number of the Applicant in all transactions
with the revenue department.

03.06.2013

&15.06.2013 Directions have been issued in the State of
Maharashtra and also by the High Court of
Judicature at Bombay directing that
Aadhaar Number or Aadhaar Card
Registration Number is required to be
entered in the system for generating Pay
Bills.

23.09.2013

An order was passed by this Hon'ble Court
in Writ Petition (Civil) No. 494 of 2012,
Justice K S Puttaswamy & Anr v. Union of
India &ors. that no person should suffer for
not getting the Aadhaar card inspite of the
fact that some authority had issued a
circular making it mandatory and when a

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person applied to get the Adhaar Card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to the illegal immigrant.

07.10.2013 The Petitioner had filed I.A. No. 3 of 2013 seeking impleadment in Writ Petition (Civil) No.833 of 2013 - Aruna Roy &Anr. Vs. Union of India &Ors. Vide order dated 07.10.2013 in Writ Petition (Civil) No.833 of 2013 the matter was to be listed along with I. A. No. of 2013 in Writ Petition (Civil) No. 494 of 2012.

21.10.2013 The Petitioner had been seeking information of UIDAI's contracts with MNCs and vide order dated 21.10.2013 the Central Information Commission had directed that the information should be furnished.

24.03.2014 An order was passed in Special Leave Petition(Criminal) No. 2524 of 2014 Unique Identification Authority of India &Anr v. Central Bureau of Investigation restraining the UIDAI from transferring any biometric information of any person who has been allotted the Aadhaar number to any other

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agency without his consent in writing.

Further that, no person shall be deprived of any service for want of Aadhaar number in case he/she is otherwise eligible/entitled.

30.04.2014 Contempt Petition (Civil) 144 of 2014 Mathew Thomas & Anr v. Vivek Rae & Ors was filed by the Petitioner against contempt of order dated 23.09.2013 in Writ Petition (Civil) No. 494 of 2012- K S Puttaswamy v. Union of India & ors. Vide order dated 30.04.2014, IA No. 1 of 2014 in the said contempt petition was disposed off in the light of assurances given by the Solicitor, while leaving it open to the parties to agitate other issues at the time of final hearing of the matters.

03.09.2014 In compliance with order dated 21.10.2013 UIDAI who had earlier stated in RTI reply that the contractual obligations are over and hence they have no objections in giving contract copies, when they finally provided the copies, certain pages were found to be missing. Thereafter when the missing pages were sought, UIDAI in reply stated that non-

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disclosure agreement prevents them from giving the contract copies. The Petitioner thereafter again appealed to the CIC who vide order dated 03.09.2014 directed the Registrar to examine the Matter concerning compliance with order dated 21.10.2013.

14.10.2014

The matter was in accordance with order dated 03.09.2014 examined by the registry and placed before the Commission who was in turn directed to communicate to the Respondent No. 3/UIDAI (which was done through letter dated 14.10.2014, a copy of which was sent to the Petitioner) that Respondent No. 3 should within two weeks of receipt of the order provide to the Appellant the limited information i.e. financial quotation/price quoted by the third party firms in the subject tender.

As regarding the remaining information concerning the Technical Bid and Commercial Bid, it was observed that Respondent 3's decision vide letter No. F-12013/ 096/ 2012/ RTI-UIDAI dated 20/12.2013 to deny this information to the

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Petitioner after following third party information procedure laid down in Section 11(1) of the RTI Act was in conformity with decisions of the High Court that there shall be no disclosure with regard to the information concerning the Technical Bid and Commercial Bid as it falls under the exemption category of Section 8 (1) (d) of the RTI Act.

Disclosure of information with regard to contractors is of utmost importance for otherwise irreparable loss will be cause to the people of India if they are required to give their personal biometric data to companies and agencies in who do not posses technical capabilities or standards required to meet such a project, and would in turn be in violation of Articles 14, and 21 of the Constitution of India.

Despite avowed political opposition the UIDAI's Aadhaar Scheme, the Respondent No.1 has recently announced various other provisions making it compulsory for people of India to enroll in Aadhar.

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The Respondent No.1 and Respondent No.3 are also not providing information to the Petitioner under the Right to Information Act, 2005 and only very limited information is being made available to him, and as such the Respondents may be directed to produce all records relating to UID and award of contracts including tender documents before this Hon'ble Court.

The Respondent No.1 has launched www.attendance.gov.in which carries attendance information of enrolled Government Offices and Tribunals. It is submitted that in order for an employee's attendance to be marked in the Biometric Attendance System, it is necessary for the employee to obtain /enroll under the Aadhaar Scheme and have UID number. It is submitted that the such approach is in direct contravention of the order passed by this Hon'ble Court on 23.09.2013, and as such in the interim the Writ Petition seeks interim reliefs which are of urgent nature, especially given that Union Government is one of the largest employers.

29.12.2014 Hence the Writ Petition.

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IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (C) NO. _____ OF 2014
[UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA IN
'THE NATURE OF PUBLIC INTEREST LITIGATION']

IN THE MATTER OF:

Mathew Thomas,
S/o Late Mr. T.P. John,
R/o No.18 A, Adarsh Vista,
Basavanagar, Bangalore
Karnataka - 560037

...Petitioner

VERSUS

1. Union of India , through Secretary,
Ministry of Finance, Central
Secretariat, North Block, New Delhi
110001
2. Planning Commission, Government
of India, through its Secretary,
Yojna Bhawan, Sansad Marg, New
Delhi 110001
3. Unique Identification Authority of
India, through its Director General,
Planning Commission, Government
of India, Yojna Bhawan, Sansad
Marg, New Delhi 110001.
4. Secretary, Department of
Information Technology,
Government of India, Electronics
Niketan, 6, CGO Complex, Lodhi
Road, New Delhi: 110003
5. The Registrar General and Census
Commissioner of India, having his
office at 2/A, Man Singh Road, New
Delhi -110011.
6. The Ministry of Petroleum & Natural
Gas, through its Secretary,
Government of India, Shashtri
Bhawan, New Delhi.

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7. The Ministry of Personnel, Public
Grievance, and Pension,
Government of India, through its
Secretary, Lok Nayak Bhawan,Respondents
New Delhi.

WRIT PETITION UNDER ARTICLE 32
OF THE CONSTITUTION OF INDIA

TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE
PETITIONER ABOVE NAMED:

MOST RESPECTFULLY SHOWETH:

1. That, the instant Writ Petition is being filed by the above
named Petitioner, *inter alia*, seeking a writ in the nature
of Public Interest Litigation, *inter alia*, seeking a writ in
nature of *certiorari* for quashing the Gazette Notification
(bearing No. A-43011/02/2009- Admn I) dated 28-01-
2009 (Annexure-P/5) issued by Planning Commission,
Government of India / Respondent No.2, and writ in the
nature of *mandamus* directing the Union of India
(Respondent No.1), Planning Commission (Respondent
No.2) and the Unique Identification Authority of India
(hereinafter referred to as "UIDAI")/Respondent No.3 to
destroy all the information collected pursuant to the said
impugned notifications and for setting aside the order
dated 03.07.2012 passed by the Ld. XVI Addl. City Civil
& Sessions Judge, Bangalore in O.S. No. 8181 of 2012.
(Annexure-P/18)

1A. The petitioner has approached the concerned authority for seeking the relief sought in the present petitioner however, no action was taken on the same and the Petitioner has addressed various letters to the Hon'ble Prime Minister and Hon'ble Members of Parliament informing them of the dangers and drawbacks of the UID scheme; no action has been taken thereupon. He is thus, forced to approach to this Hon'ble Court for relief and protection of his rights guaranteed under the Constitution.

2. It is submitted that the Petitioner had sought information with regard to UIDAI's contractors and foreign private companies whose software UIDAI has contracted to use. It can be seen that Respondent No.3, UIDAI is deliberately hiding information about the foreign MNC contractors from Respondent No.3's Reply No. F. 12013/13/2011/RTI-UIDAI dated 21.07.2011 issued by the UIDAI Office of the Planning Commission at New Delhi, Delhi to one of the RTI queries stating that "There is no way of verifying the country of origin of the companies"

a) The present Writ Petition is in the nature of *bonafide* public interest litigation being filed by the Petitioner, Mathew Thomas, S/o Late Mr. T.P. John, R/o No.18 A, Adarsh Vista, Basavanagar, Bangalore Karnataka-560037 (Email: mathew.111938@gmail.com, Contact No. 9880000401). Identity proof is enclosed herewith. The Petitioner, a citizen of India, is a retired

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army officer and defence missile scientist, a social activist and professor in management at Bangalore. His annual income is about Rs. 5,00,000/-.

bi) The Cause of Action arose when the petitioner sought information of UIDAI's contracts with MNCs and vide order dated 21.10.2013 the Central Information Commission had directed that the information should be furnished. UIDAI has stated in its reply that non-disclosure agreement prevents them from giving the contract copies. The Petitioner thereafter again appealed to the CIC who vide order dated 03.09.2014 directed the Registrar to examine the Matter concerning compliance with order dated 21.10.2013. Despite the Petitioner's attempts before the Central Information Commissioner and orders of the Central Information Commission, the Respondents have not provided till date the complete set of documents relating to contracts between UIDAI and the said contractors.

c) The nature of injury is such which will not only pose real and present danger and threat to the security of the Nation but also to its people. During his work career with the Indian army, the Petitioner has planned, designed, installed and managed software applications pertaining to national security and as such he is fully familiar with use of information technology. The Petitioner is also aggrieved by the conduct of the Respondents that jeopardize the privacy of citizens and making the availment of essential services rendered by the State upon possession of Aadhaar Card or Unique Identification (UID) card. The Petitioner is advised that since other Writ Petitions pertaining to the same subject matter (where judicial orders have also been passed) are pending before this Hon'ble Court, approaching the High

5.

Court by way of Writ Petition under Article 226 of the Constitution of India is not the proper remedy.

d) The Petitioner has no personal or private interest arising out from the prayers in the instant Writ Petition.

e) The present Petitioner has not filed any other petition in any High Court or the Supreme Court of India having nexus to the subject matter of the present petition except Regular First Appeal No. 1825 of 2012, against the said order dated 03.07.2012 which is presently pending before the Hon'ble High Court of Karnataka. He had also filed a suit being O.S. No. 8181 of 2012, in the Court of the XVI Additional City Civil and Sessions Court at Bangalore against UIDAI and the Planning Commission, *inter alia*, seeking relief of declaration that the Aadhaar scheme as illegal. The same was dismissed under order VII Rule 11.

3. It is respectfully submitted that it is also necessary to state that the Petitioner had earlier filed I.A. No. 3 of 2013 seeking impleadment in Writ Petition (Civil) No. 833 of 2013 – Aruna Roy & Anr. Vs. Union of India & Ors. The Petitioner had also filed Contempt Petition No. 144 of 2014 – Mathew Thomas v. Vivek Rae against contempt of order dated 23.09.2013 in Writ Petition (Civil) No. 494 of 2012- K S Puttaswamy v. Union of India & Ors. The Petitioner is now desirous of filing a substantive writ petition in order to bring out certain very important facts, evidence and issues seeking most appropriate reliefs as are advised to him. No other Writ Petition has been filed by the Petitioner before this Hon'ble Court or any other

court in respect of the relief sought before this Hon'ble Court by means of the present Writ Petition.

4. It is respectfully submitted that pursuant to the aforesaid said notifications, the Respondent No.3, which is not even a statutory body has rolled out Unique ID (UID) scheme called "Aadhaar" Scheme, for collection of personal data of residents of India, and various governmental bodies have made availment of essential services as well as withdrawal of salary contingent upon possession of "Aadhaar" card. Incidentally, the name "Aadhaar" is also the name of a private trust controlled by the first Chairman of UIDAI and his family who is perceived to be the brain behind "Aadhaar". The said collection of data is being done by agencies, whose security credentials are not scrutinized thoroughly and the Aadhaar card is being issued even to illegal migrants in India, enabling them to avail services of Government of India, which are meant only for citizens of India and not for mere residents. The avowed objectives of UID scheme are itself farcical and the entire exercise is nothing but colossal waste of public money and exposes India's vulnerabilities, and in fact for introduction of the UID project which affects and abridges the rights of citizens, the Respondent No.1 did not have sufficient material before it to come to the conclusion that such an incursion on the rights of the citizens was necessary. The

Petitioner has further prayed for the declaration that Section 14-A of the Citizenship Act, 1955 is *ultravires* the Constitution, in that the collection of personal data under the National Population Register in terms of Section 14-A of the Citizenship Act, 1955 is violative of Article 14 and Articles 21 to the Constitution of India and it suffers from the vice of excessive delegation in that it does not prescribe to what extent private information of citizens shall be required and leaves it to the discretion of executive. Section 14-A of the Citizenship Act, 1955 provides:

“14-A. Issue of national identity cards.—(1) The Central Government may compulsorily register every citizen of India and issue national identity card to him.

(2) The Central Government may maintain a National Register of Indian Citizens and for that purpose establish a National Registration Authority.

(3) On and from the date of commencement of the Citizenship (Amendment) Act, 2003, the Registrar General, India, appointed under subsection (1) of Section 3 of the Registration of Births and Deaths Act, 1969 (18 of 1969) shall act as the National Registration Authority and he shall function as the Registrar General of Citizen Registration.

(4) The Central Government may appoint such other officers and staff as may be required to assist the Registrar General of Citizen Registration in discharging his functions and responsibilities.”

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(5) The procedure to be followed in compulsory registration of the citizens of India shall be such as may be prescribed."

5. Further, the Petitioner verily believes that that when the Ministry of Home Affairs raised the issues of National Security and concerns regarding the manner in which UIDAI was collecting personal data of residents of India, the Government (a Group of Ministers) decided that the data of 600 million (i.e. half of the population) would be collected by UIDAI and the balance half would be collected by Registrar General and Census Commissioner/ Respondent No.5, and the said two databases shall be merged. Therefore, the position that emerges is that there are two sets of data, one compulsory under the Citizenship Act, and the other voluntary under the UIDAI Scheme, and they are sought to be merged and the ownership of which will vest with UIDAI. It is submitted that contrary to the claims, National Population register is not the database contemplated under Section 14-A of the Citizenship Act, 1955 but only "a step" towards it. Accordingly, it is submitted that both the UIDAI scheme as well as Section 14-A of the Citizenship Act, 1955 purportedly permitting National Population Register are illegal and liable to be set quashed.

6. That the facts leading to filing of the instant Writ Petition are set out herein below:

- i. That to the Petitioner's knowledge, the root of the idea of having national identity cards for the citizens is traceable to K. Subrahmanyam Committee setup in the

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year 1999, in the aftermath of Kargil War, initially restricted to border districts. Despite the said background, as per information available on the website of Respondent No.3, the concept of a unique identification card has been traced back to 03.03.2006, when the administrative approval for the project:- "Unique ID for Below Poverty Line (BPL) families" was given by the Department of Information Technology, Ministry of Communications and Information Technology, Government of India. Subsequently, a Processes Committee to suggest processes for updation, modification, addition and deletion of data fields from the core database to be created under the Unique ID for below BPL project was set up on 03.07.2006. It appears that initially the objective of creating a "unique identity" database was restricted only to BPL families on the premise that Government's inability to deliver welfare services was due to lack of identification.

- ii. That to Petitioner's knowledge, an unsolicited proposal called "Strategic Vision on the UIDAI Project" was received from a private company, M/s Wipro Ltd., who acted as Consultant for the design phase and program management phase of the then UID project, which may be summoned from Respondent No.1. To the

knowledge of the Petitioner, Respondent No.1 or Respondent No.2 did not issue notice inviting tender in this respect. The Petitioner verily believes that the said proposal entitled "Strategic Vision on the UIDAI Project" and another document prepared by M/s Wipro Ltd., "DOES INDIA NEED A UNIQUE IDENTITY NUMBER?" relied heavily on the UK's Identity Cards Act, 2006 to advocate a UID project for India. It is relevant to state that subsequently, the United Kingdom has itself abandoned the project on account of security and human rights violation arising therefrom, as it was acknowledged that such an ID system would not be able to achieve the proposed twin objectives of prevention of illegal migration and improvement of National Health Services (NHS). The said documents prepared by M/s Wipro Ltd., envisaged the close linkage between the UID project and the electoral database.

- iii. That on 15.03.1950, the Petitioner verily believes that even though the Process Committee was made aware by M/s Wipro Ltd., of the fact that in the United Kingdom, (whose constitutional ideals resemble closely with India's ethos) the identity card project was being carried out pursuant to the UK Identity Card Act, 2006, the Committee granted an 'in principle' approval

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on 30.08.2007 for creation of 'Unique Identification Authority of India' (hereinafter referred to as "UIDAI") by an executive order under the aegis of the Planning Commission as an "attached office" of the Commission. It is pertinent to submit that the Planning Commission was itself established by a resolution dated 15.03.1950, and is neither a statutory body nor a Constitutional body. It is submitted that the chief reason for creating UIDAI under the 'aegis' of Respondent No.2/ Planning Commission, is to circumvent the normal accountability processes that are available, in as much, the Planning Commission is answerable directly to the Prime Minister of India. It is submitted that the objectives of the Planning Commission/ Respondent No.2 as set out in the Resolution dated 15.03.1950 do not have room to accommodate the objectives of the UIDAI, and therefore, creation of UIDAI under the aegis of Planning Commission is *ultra vires* the resolution dated 15.03.1950. It is stated that the Planning Commission did not infringe on rights of the citizens and it did not therefore require any statutory basis. True typed copy of Government of India Cabinet Secretariat Resolution (Planning) dated 15.03.1950 is annexed herewith and marked as **Annexure P-1** pages (107-113.)

- iv. That Petitioner has reliably learnt that having functioned for all these 5 years, UIDAI without statutory support, now upon the (proposed) abolition of the Planning Commission, it is proposed to be transferred to function under the aegis of Ministry of Information & Technology.
- v. That the Registrar General and Census Commissioner of India was engaged in the creation of the National Population Register (hereinafter referred to as "NPR") and issuance of Multi-purpose National Identity Cards to citizens of India. The Registrar General is appointed under Section 3(1) of the Registration of Births and Deaths Act, 1969, and who is empowered by Section 14-A of the Citizenship Act, 1955 to compulsorily register citizen should the Central Government so decide. It is submitted that even though Section 14-A of the Citizenship Act, 1955 refers to National Register of Indian Citizen (hereinafter "NRoIC"), which has metamorphosed into National Population Register. In fact, the creation of the National Population Register (NPR) is the first step towards preparation of the NRIC, and admittedly NPR is not NRIC. The NPR, therefore, even though being undertaken under Section 14-A of

the Citizenship Act, 1955, does not fulfill the conditions of Section 14-A of the Citizenship Act. The preparation of NPR is being done not under the Census Act, 1948. Whilst Section 15 of the Census Act, 1948, expressly makes the information that is recorded pursuant to the Census Act, 1948 "not open to inspection nor admissible in evidence", there is no such protection provided under the Citizenship Act, 1955, making each and every detail of the NPR available to inspection. In fact, the amendment of the Citizenship Act, 1955 providing for National Population Register, without providing for a concomitant bar on access to such information is violative of Articles 14 and 21 of the Constitution of India. The Census Act, 1948 enables the collection of information so as to enable the State to have profile of the population; and due to Section 15 therein, the possibility of usage/dissemination of the said information for 'profiling' and other purposes not provided by law is eliminated and penalized.

- vi. That on 07.03.2005, the Respondents have never mentioned the use of UID / Aadhaar for anti-terrorism purposes or preventing illegal immigration, the idea seems to be to use it for these. Many people, especially in governments, including the Respondents, egged on

by (biometric technology) business lobbies, hold the wholly erroneous opinion that a database, such as UID, or a national ID card would help governments to combat terrorism and prevent illegal immigration. That there is no evidence to support this view. It is submitted that the fingerprint evidence is not unimpeachable. On the contrary, UID Card can and has been easily faked. Expert opinion available in public proves the fallibility of biometric and database systems for such applications. The Petitioner submits that the expert views completely demolish the claims of the Respondents and should serve as a caution to all those who hope that systems such as UID / Aadhaar would be of any use. The Petitioner believes the contents of the said newspaper LSE Study, articles and magazine to be true and correct. Article in "Technology" section of 'The Economist' - a highly reputed magazine, titled, "Biometrics - Dubious Security" and another article in 'The Times' UK, authored by Prof Ian Angell, head of Information Technology at LSE's management department, titled, "ID Cards - Ultimate Identity Theft. True typed copy of report of LSE's management department, titled, "ID Cards - Ultimate Identity Theft published in the "The

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Times, UK" dated 07.03.2005 is annexed herewith and marked as **Annexures P=2**. (Page No. 114-119).

- vii. That in March 2005, given that the UID in India has also been professed as being for better provision of public services, the purpose of the UID in India and the National ID Card in the United Kingdom is the same. Further, the linkage of UID with the National Population Register makes UID also a tool against illegal immigration and a tool for detection of crime. It is submitted that notwithstanding the fact that the United Kingdom also has a data protection law, the Identity Card project had been abandoned in the United Kingdom. A Study conducted by the London School of Economics found that none of the professed objectives would be achieved. It is pertinent to note that one of the professed objectives of the UK ID Card as is the case with UID in India is the prevention of leakage public benefits. It is submitted that as found in the UK, in India, there is no formal and reliable study to identify whether the causes of such leakage is due to lack of identity card. True typed copy of the Interim Report of LSE study in Landon School of Economics & Political Science dated March 2005 is annexed

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herewith and marked as **Annexure P-3** (pages 120 to 132)

viii. That thereafter, an empowered group of Ministers (hereinafter referred to as "EGoM") was constituted on 04.12.2006 to collate the two schemes - the National Population Register under the Citizenship Act, 1955 and the Unique Identification Number project. The Petitioner has thus far not been able to locate any formal order that has been passed to collate and link Aadhaar with National Population Register, but it is known that a person who enrolls for one of the two is automatically enrolled into the other.

ix. That the Petitioner verily believes for the above purposes the Registrar General under the Citizenship Act, 1955, has engaged services of contractor called M/s B.E.L. downloads from UIDAI portal, proprietary software licensed to UIDAI by foreign contractors providing biometric technology services to UIDAI. M/s B.E.L. collects and transmits the biometric and other data to UIDAI, who then, using the biometric technology of its foreign contractors generates a random unique 12 digit identification number link to the uploaded biometric and then attaches to the individual to whom they belong. The Citizenship Act,

1955 is meant for laying conditions for eligibility for and acquisition of citizenship and not for creation of a "register" and Section 14-A is incongruous with the Scheme of the 1955 Act.

- x. That, the first meeting of the EGoM was held on 27.11.2007, the minutes of which are not available with the Petitioner and may be summoned from Respondent No.1. From the details available in public domain, it appears that in the said meeting EGoM recognized the need for creating an identity related resident database, regardless of whether the database is created based on a *de-novo* collection of individual data or is based on already existing data such as the voter list, there is a crucial and imperative need to identify and establish an institutional mechanism that will "own" the database and will be responsible for its maintenance and updating on an ongoing basis post its creation. It is submitted that the database, being a property, having details of people of India, can be owned and vested only in the President of India, and not in any "authority". In order to "own" any material or non-material goods, a person must be a juristic entity; and neither the UIDAI nor the Planning Commission/ Respondent No.2 are juristic entities capable of holding properties. It is further submitted

that for the very same reason that neither Respondent No.2 nor Respondent No.3 are juristic persons, they are not capable of entering into contracts and agreement, and all agreements by which Respondent No.3 has appointed 'registrars' are therefore nullity.

- xi. That in the second meeting of the EGoM, which was held on 28.01.2008, the proposal to establish UIDAI /Respondent No.3 under the aegis of Planning Commission/Respondent No.2 was approved. It is submitted that the said act of establishment of Respondent No.3 could not have been done by a mere approval of the Empowered Group of Ministers, which is not even a body recognized under the Constitution of India. All acts affecting rights and liberties of an individual are to be necessarily backed by law. In the instant, neither the creation of the Planning Commission nor the creation of Respondent No.3 / UIDAI under its aegis is products of legislative process. It is submitted that right to privacy, being guaranteed under Article 21 of the Constitution of India, cannot be infringed except by law and only to the extent necessary. It is submitted that 'law' means law enacted by the Parliament. The minutes of the said meeting may be summoned from Respondent No.1.

xii. That the third meeting of the EGoM was held on 07.08.2008, wherein the Planning Commission placed before the EGoM a detailed proposal for setting up UIDAI. It appears that in the said meeting, 'certain issues' were raised by the members with relation to the UIDAI, which were referred the matter to a Committee of Secretaries to examine and give its recommendations to the EGoM to facilitate a final decision. The minutes of the said meeting may be summoned from Respondent No.1.

xiii. That, subsequent to the Committee of Secretaries recommendations, the fourth meeting of the EGoM was held on 04.11.2008, and, *inter alia*, it was decided by EGoM that:

a) A)Initially the UIDAI may be notified as an executive authority and investing it with statutory authority could be taken up for consideration later at an appropriate time.

b) UIDAI may limit its activities to creation of the initial database from the electoral roll/EPIC data. UIDAI may however additionally issue instructions to agencies that undertake creation of databases to ensure standardization of data elements.

- c) UIDAI will take its own decision as to how to build the database.
 - d) UIDAI would be 'anchored' in the Planning Commission for five years after which a view would be taken as to where the UIDAI would be located within Government.
 - e) Approval to the constitution of the State UIDAI Authorities simultaneously with the Central UIDAI with a core team of three personnel.
- xiv. That subsequently, on 22.01.2009, the Cabinet Secretary to the Government of India, in pursuance of the decisions of the EGoM considered the 'proposal submitted by the Department of Information Technology regarding the governance structure and recommended that:
- a) the notification for constitution of the UIDAI should be issued immediately;
 - b) a High Level Advisory, Monitoring and Review Committee headed by Deputy Chairman, Planning Commission to be constituted to oversee the work of the authority.
 - c) a Member, Planning Commission or the Secretary, Planning Commission may also be assigned the task of looking after the work proposed for the Chief UIDAI Commissioner.

d) Core Team to be put in place.

xv. That on 04.12.2007, the Petitioner has learnt from information in public domain which he believes to be true that another contractor of UIDAI, M/s Accenture, has been prosecuted in USA, under The Anti-kickbacks Act, The Anti-false Claims Act and The Truth in Negotiations Act. The Plaintiff in the case is the Government of the United States of America. It is respectfully submitted that the charges in the prosecution document are extremely serious and supported by voluminous evidence. True typed copy of the Prosecution document No. 4:04-CV-00985-WRW dated 04.12.2007 in one of the many cases against Accenture downloaded from the US Justice Department's website dated Nil is annexed herewith and marked as **Annexure P-4** [Pages 133 - 174)

xvi. That on 28.01.2009, in pursuance of the EGoM's fourth meeting dated 04.11.2008, the Unique Identification Authority of India / UIDAI was constituted and notified by the Planning Commission vide notification dated 28.01.2009 (hereinafter referred to as "Impugned Notification") as "an Attached Office under the aegis of Planning Commission" with an initial core team of 115 officials. The Impugned

Notification specifically provided that, the implementation of the UID Scheme, will inter alia, including the following responsibilities:

- a) Generate and assign UID to residents;
- b) Define mechanisms and processes for interlinking UID with PARTNER databases on a continuous basis;
- c) Define usage and applicability of UID for delivery of various services.
- d) Take necessary steps to ensure collation of NPR with UID (as per approved strategy);
- e) Ensure ways for LEVERAGING field level institutions appropriately such as PRIs in establishing linkages across PARTNER AGENCIES as well as its validation while cross linking with other designated agencies;

True typed copy of the Notification dated 28.01.2009 issued by the Planning Commission, Government of India is annexed herewith and marked as **Annexure P-5** (Pages 175 - 179)

- xvii. That as per the Impugned Notification, "UIDAI shall have the responsibility to lay down plan and policies to implement UID Scheme, shall own and operate UID database and be responsible for its updation and

maintenance on an ongoing basis". It further provided that Respondent No.2/Planning Commission shall be the nodal agency for UIDAI for providing logistics, planning and budgetary support and that Respondent No.2 would provide initial office and IT infrastructure at Central level.

xviii. That the impugned notification establishes an authority, which is a subordinate organization within and under the 'aegis' the Planning Commission /Respondent No.2 and since it is not a juristic person, it can neither hold or own properties, nor can it enter into agreements/contracts in its own right. An authority, which is not a juristic person, merely being an association of persons, can be a beneficiary of properties and acts of a juristic person (i.e. the Government of India, through the President) but cannot hold or own properties. Therefore, the Impugned Notification is bad in law, in that it attempts to vest ownership of a database in a non-juristic entity, which is not even accountable to the Parliament.

xix. That, in April, 2010, the Respondent No.3 prepared UIDAI Strategy Overview. The said report in Chapter 9, *inter alia*, categorically states:

"Political Risks: The UID project will require support from state governments across India. The project will also require sufficient support from individual governmental departments especially in linking public services to the UID, and from service providers joining as Registrars.

Sustainability Risks: The economic model for the UIDAI will have to be designed to be sustainable in the long terms, and ensure that the project can adhere to the standards mandated by the Authority"

True typed copy of the UIDAI Strategy Overview prepared by Respondent No.3 in April 2010 dated Nil is annexed herewith and marked as **Annexure P-6.**
[Pages 180 - 201)

- xx. That it is unthinkable and incongruent with Governmental functions that Respondent No.3 has planned 'economic model' for UIDAI, which gives it a flavor of a business enterprise. It is submitted that when no 'economic model' is linked to authorities under the Census Act, 1948 or officers under the Citizenship Act, 1955, there is no reason for UIDAI to have an economic model. As will be set out below, such 'economic model' is linkage of silos of information and unhindered share of private information.

- xxi. That the objective of UID to have a “universal” database of all the residents of India cannot be achieved until and unless the Government encroaches upon the fundamental and core private rights, and therefore, UIDAI is required to be statutorily provided. There are no provisions in the UIDAI to even apprise the people of India of the consequences of such enrollment and how it affects legal rights of individuals. As has been set out herein below, Respondent No.3 through its registrars has made enrolment for mandatory availment of certain services – which design is also reflected from the Strategy Overview prepared by Respondent No.3 in April, 2010.
- xxii. That the Respondent No.3/UIDAI has been signing memorandum of understanding (MOUs) with a range of agencies including banks, state governments, and the Life Insurance Corporation of India to be “registrars”, who then may insist that their customers enroll on the UID to receive continued service. Thus, whilst UIDAI/ Respondent No.3 is itself not making the enrolment for UID scheme mandatory, the other agencies with whom it has agreements are not prohibited from doing so. There are various instances of UID having been made compulsory by such bodies as has been set out below.

It is submitted that making enrolment in UIDAI compulsory for availing government welfare services, serves no purpose whatsoever, as is explained herein below.

- xxiii. That by way of exemplar regard may be had to the Sample MOU between UIDAI and Government of NCT Delhi, wherein 'Registrars' are defined as:-

"Registrar" are departments or agencies of the Govt of NCT of Delhi, which in normal course of implementation of some of their programs or activities interact with the residents, and are authorized by the Govt of NCT of Delhi to enroll residents into the UID system. Examples of such Registrar are Rural Development Department (for NREGS) or Civil Supplies and Consumer Affairs Department (for TPDS).

- xxiv. That on 28.06.2010, by its very definition, it is evident that the Registrars appointed by the intervention of the State Governments are required to compulsorily register those persons who interact with it for availing certain services. True typed copy of the sample MOU between Respondent No.3 and Govt of NCT of Delhi dated 28.06.2010 is annexed herewith and marked as

Annexure P-7 [Pages 202-214)

xxv. That the UID scheme does not have the legal sanction, which it ought to have under the Constitution of India. It is submitted that the things that UID seeks to achieve, seriously affect the lives of people of India and make incursions on the guaranteed fundamental rights of the citizens, and as such the same cannot be achieved unless the same arises out of "authority of law" within the Constitutional framework. In the present form, merely by the Impugned Notification, UIDAI/Respondent No.3 cannot be established and be ordained to function affecting rights of the people of India. It is submitted that Article 73 of the Constitution of India which delineates the extent of executive power of the Union and describes it as extending to matters with respect to which the Parliament has power to make laws cannot be read by Respondent No.1 to assume for itself the "essential law making function" of the Parliament. It is submitted that the test whether legislation is required for an executive act was considered in *Ram Jawaya Kapur v. State of Punjab*, AIR 1955 SC 549, wherein Chief Justice Bijan Kumar Mukherjee held that:

"17. Specific legislation may indeed be necessary if the Government require certain powers in

addition to what they possess under ordinary law in order to carry on the particular trade or business. Thus when it is necessary to encroach upon private rights in order to enable the Government to carry on their business, a specific legislation sanctioning such course would have to be passed."

xxvi. That, on 03.12.2010, the National Identification Authority of India Bill, 2010 was introduced in the Lok Sabha. It is submitted that the very fact that the said Bill had been introduced goes to show that Respondents themselves are mindful that UIDAI requires a statutory basis. The Bill was introduced with the following objective:

"to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matters connected therewith or incidental thereto."

True typed copy of the National Identification Authority of India Bill, 2010 dated 08.11.2010 is annexed herewith and marked as Annexure P-8 [Pages 215-279,

- xxvii. That in April 2010, from the information available in public domain he has learnt that the Chairperson of UIDAI received an award for promoting biometrics at an international workshop held in Milan, Italy in 2010. M/s L 1 Identity Solutions, the contractor of the UIDAI, was one of the main sponsors of the workshop. It is hence, impossible that he did not know the foreign companies who were his contractors. The Petitioner respectfully submits that the previous year, that is, in 2009, the Chief of Pakistan's NADRA (National Demographic Registration Authority, an authority identical to India's UIDAI) Mr. Tariq Malik received the same international award for promoting biometrics. The Petitioner submits that India and Pakistan are perhaps two major countries using the services of these biometric service providing companies with links to US intelligence agencies. The Petitioner further respectfully submits that the fact that these awards are given soon after or just before the contracts are issued to the sponsors of these international events are indicative of lobbies of multinational companies at work on which the Petitioner proposes to rely and believes to be true.

The Petitioner respectfully submits on the basis of his belief that the use of these US / French companies, who are also simultaneously contractors for Pakistan constitutes a grave threat to the security of this Nation. True copy of relevant printouts of reports of the ID People Awards 2010 downloaded by the petitioner from Internet dated Nil are annexed and marked as **Annexure P-9-** (pages 280 to 283)

- xxviii. That ON 05.01.2011, to the Petitioner's information, which he believes to be true, a number of FIRs have been filed against some persons who were exposed through a TV Channel's sting operation indulging in the generation of UID / Aadhaar numbers / fake IDs at the Mysore enrolment center of the firm COMAT Technologies, one of UIDAI's EAs. Strangely, the FIR does not mention the firm, COMAT Technologies. UIDAI was unaware of the fraud and even after the TV sting exposed it, did not file any FIR or take any action against the firm. The results of the police investigation are not available to public, and in fact despite attempts the Petitioner has not been able to find out the outcome of the said investigation. That, the FIR reveals that it was not UIDAI or his registrar who detected the fraud, but a sting operation by a TV channel. The FIR

also says that there are many such instances of fraud. The TV sting operation was taken as a FIR by the police. However, the FIR does not even mention the name of the firm. True typed copy of the FIR No.01/2011 dated 05.01.2011 registered at Narasimaharaja Police Station, Mysore City, Dist: Mysore, Karnataka is annexed herewith and marked as **Annexure P-10** [Pages 284 - 287)

- xxix. That there has not been any prior study on the efficacies of the UID/Aadhaar Scheme. It is submitted that only after the UID Scheme has been set up for effecting direct transfer at that stage, a Task Force had been setup to 'recommend implementable solution for direct benefit transfer using Aadhaar based authentication'. It is submitted that the study ought to have preceded the setting of UIDAI and not the other way. The Respondents have put the proverbial cart before the horse. It is submitted that the task force is bound to give a report in favour of the UIDAI, in as much the Chairman of UIDAI was also the Chairman of the said task force as is evident from Office Memorandum dated 14.02.2011 appended to the Report and in any event was appointed with a limited mandate. True typed copy of the Interim Task Force Report on Direct Transfer of Subsidies on Kerosene,

LPG and Fertilizer dated NIL is annexed herewith and marked as **Annexure P-11** [Pages 288-427]

xxx. That on 19.01.2011, Member of Parliament (Rajya Sabha) Justice Dr. M. Rama Jois expressed his surprise as to lack of propriety as the Respondent No.3 under the aegis of Respondent No.2 was proceeding to roll out Aadhaar scheme even though the National Identification Authority of India Bill, 2010 was pending. Further it was suggested by him that an amendment to the Bill in the Rajya Sabha under Rule 125 to refer the Bill to Joint Select Committee in view of the colossal expenditure involved in the Bill. True typed copy of the letter dated 19.01.2011 addressed by Justice Dr. M Rama Jois to the Prime Minister of India is annexed as **Annexure P-12**. [Pages 428-430]

xxxi. That on 15.03.2011, Dr. M. Rama Jois, Member of Parliament made a special mention under Rule 180(A) on 15.03.2011, wherein he stated that:

“UNLESS the Bill is considers by Standing Committee and thereafter debated in both the Houses of Parliament and passed and becomes the law the issue of Aadhaar Numbers to the residents tantamount to circumventing of the Parliament by the executive.

Therefore, through the Special Mention I bring it to the notice of the Finance Minister and Government of India (Nodal Ministry/Department, Planning Commission) it is appropriate that the issue of Aadhaar numbers should be stopped until the bill becomes the law."

True copy of the letter of mention dated 15.03.2011 moved by Justice M. Rama Jois is annexed herewith and marked as **Annexure P-13**. (Page 431-432)

- xxxii. That on 31st March, 2011 at this stage itself, it is relevant to state that the agents and contractors that have been appointed by Respondent No.3 have been so appointed without any due background check, and as a consequence entities who have defrauded the Governments have also been inducted as contractors. The Petitioner verily believes that one of the firms, which was empanelled as EA goes by the name of M/s. COMAT Technologies, in whose enrolling center at Mysore a fraud was unearthed. The Government of Karnataka had issued a contract to this company in 2006 for setting up a computerized biometric-linked database of ration card holders. The Government paid the company over Rs.54 Crores. The company defaulted on the contract. It did not hand over either

the data or the database to the Karnataka Government. The CAG audit report No. 2 for the year ended 31 March 2011 has pointed this out in great detail. Yet, the company was empanelled as an EA of UIDAI in 2010, the very year in which the default took place. The information has been disclosed to the Petitioner in a RTI reply of the CAG. True typed copy of the Report No.2 (Civil) dated for the year ended 31st March, 2011 issued by the Food Civil supplies and consumer affairs department is annexed herewith and marked **Annexure P-14** (pages No. 433 – 501)

- xxxiii. That on 21.07.2011, it is relevant to mention that, prior to approaching the Courts of Law, the Petitioner had moved applications under the Right to Information Act, 2005 before Respondent No.3 seeking to know whether the Respondent No.3 has done any background check and whether Respondent No.3 is aware of the country of origin of the contractors which it appoints for collection of information. By a reply dated 21.07.2011, Respondent No.3 has itself informed the Petitioner there is no way before it to ascertain the country of origin of the contractor. The said reply clearly shows that Respondent No.3 is not at all concerned with the security issues that arise out of allowing foreign entities in controlling a database that

contains personal information of all Indians. True typed copy of the UIDAI Reply Vide Letter No. F. 12013/13/2011/RTI-UIDAI dated 21.07.2011 in order No. Appeal /3/2011 issued by the UIDAI Office of the Planning Commission at New Delhi is annexed hereto and marked as **Annexure P-15** (pages 502 to 505)

xxxiv. That on 13.12.2011 after the introduction of the said Bill in the Parliament, the Bill was referred to the Parliamentary Standing Committee on Finance, which prepared a report in December, 2011, and the same was presented to Lok Sabha on 13.12.2011 and was laid in Rajya Sabha on 13.12.2011. The Committee stated that linking biometric information with personal information, without amendment to the Citizenship Act, 1955 or Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, may be beyond the scope of subordinate legislation and requires detailed examination by Parliament. The Committee also found that the UID scheme was a continuance of other forms of identification for proof of address; which was laden with potential for identification fraud due information being stored in smart cards issued by registrars; and the UID scheme could result in incomplete coverage of marginalized

sections due to lack of existing data and estimated failure rate of up to 15 percent in capturing biometric information from manual labourers, especially when that is the class of people that it seeks to benefit. The Committee was categorical in observing that the issues of confidentiality, investigation, unauthorized disclosure, imposition of obligation to disclose and security of data collected "should be addressed by law and attract penalties." True typed copy of the Forty Second Report of Standing Committee on Finance dated 13.12.2011 presented and laid before the Parliament is annexed herewith and marked as **Annexure P-16** (pages ⁵⁶⁶ to ⁵⁷⁵)

xxxv. That, in fact, Ministry of Planning in its written submissions before the Standing Committee (as stated in para 39) has itself stated that:

"In a detailed note on the Bill, the Ministry of Planning have stated that issues like access and misuse of personal information, surveillance, profiling, prohibiting other data bases from storing aadhaar numbers; and securing confidentiality of information which is in the registrar domain NEED TO BE ADDRESSED IN LARGER DATA PROTECTION LEGISLATION..."

And further in para 40, it has been stated that:

“Issues of linking and matching of databases need to be addressed through a data protection legislation which is currently being considered by the Department of Personnel.”

xxxvi. That therefore in view of the above statements made by Ministry of Planning before the Parliamentary Standing Committee, they ought to be estopped from taking a plea that a legislation is not required before UIDAI embarks upon its process of enrollment. Respondent No.1 cannot take the pleas that legislation is required but also proceed with the UID project without the legislation at the same time and then seek to retrospectively legitimize its illegal actions on the grounds of equity and balance of convenience citing the huge expenditures incurred.

xxxvii. That it is submitted that there is undeniably no “leakage” when it comes to payment of salary to the employees of the State Government and to judges of the High Court of Bombay, and therefore, there is no purpose that will be served by quoting Aadhaar number in Pay Bills. It makes it clear that Respondent No.1 and Respondent No.3 are leaving no stone unturned to make Aadhaar Number compulsory by

making it precondition for access to even wages that an employee is entitled to. This Hon'ble Court in *State of Maharashtra v. Indian Hotel & Restaurant Association*, reported in (2013) 8 SCC 519 that fundamental rights (Article 19 in the instant case) cannot be curtailed unless there is material before the legislature to justify such curtailment. In the instant case, there is no material before the executive to justify the compulsory collection of biometric and other personal information of the residents either under UID or under NPR.

xxxviii. That on 24.04.2012, in this respect the Government had replied stating, *inter alia*, that:

"M/o Law & Justice as well as the Attorney General of India have opined that action to enroll residents by UIDAI in terms of the executive notification issued on 28.01.2009 is valid. However, the Government is pursuing the proposal for enacting legislation as it is felt that a regulatory structure supported by legal framework would assist in more effective functioning of the UID Authority. Particularly, any violations of security and privacy of UID data on the part of the any of stakeholders that may arise in the future, could be dealt with in a more

rigorous and firm manner under a defined legal mechanism which would be possible by enacting the proposed NIDAI Bill.”

True typed copy of Parliamentary Standing Committee's 53rd Report dated 24.04.2012 is annexed herewith and marked as **Annexure P-17** (pages 576 to 647);

xxxix. That on 03.07.2012, the Petitioner and another had earlier filed O.S. No. 8181 of 2012, in the Court of the XVI Additional City Civil and Sessions Court at Bangalore against UIDAI and the Planning Commission, *inter alia*, seeking relief of declaration that the Aadhaar scheme as illegal. The suit was filed under Section 26 read with Order VII Rule 1 of the Code of Civil Procedure. The Learned Sessions Court was pleased to dismiss the suit under Order VII Rule 11 with costs by an order dated 03.07.2012, *inter alia*, on the ground that Aadhaar scheme is useful and is anyway a voluntary scheme, and no cause of action exists. Further, the trial court held that in view of (alleged) pendency of a Writ Petition before the High Court of Madras, the instant suit was not maintainable. The Ld Sessions Court further observed that since the issue raised by the Petitioner relates to

fundamental rights, which cannot be adjudicated by the Trial Court. True typed copy of the order dated 03.07.2012 passed by the Ld. XVI Addl. City Civil & Sessions Judge, Bangalore in O.S. No. 8181 of 2012 is annexed herewith and marked as **Annexure P-18** [Pages 648)

- xl. That on 06.12.2012, the 62nd Report of the Standing Committee on Finance presented to the Parliament on 06.12.2012 expressed its dissatisfaction that the enrolment process of Aadhaar was underway despite the fact that the same had not be passed by the Parliament. Similar concerns were expressed in 53rd Report of the Standing Committee on Finance dated 24.04.2012 and also in the 69th Report presented on 22.04.2013. The Committee's recommendation at Serial No.9 noted in para 15 of the Report dated 06.12.2012 states:

"The Committee is unable to understand as to how the Government is still continuing with the implementation of Aadhaar without the legislative approval and have allocated Rs. 1758 Crore for the Scheme for the year 2012-2013. The Committee in their 42nd Report on the 'National Identification Authority of India Bill 2010' has

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inter alia given their observations on number of issues and has conveyed their unacceptability of the National Identification Authority of India Bill, 2012 in its present form and urged the Government to reconsider and review the UID scheme and also the proposals contained in the Bill with all its ramifications and bring forth a fresh legislation before Parliament....”

True typed copy of the 62nd Report of the Standing Committee on Finance presented to the Parliament on 06.12.2012 is annexed herewith and marked as **Annexure P-19** [Pages 649-683)

- xli. That on 20.12.2012, the Government of NCT of Delhi has issued an order dated 20.12.2012 bearing NO. F.10.(6)/ CCS/ Div.Com/ HQRS/ 5130-5131 by which the Government of NCT of Delhi made it compulsory to mention Aadhaar Number of the Applicant in all transactions with the revenue department. The order provides:

“It is henceforth ordered that Aadhaar Number of the Applicant, will be required to be mentioned compulsorily at the time of applying various services as mentioned below. The Aadhaar Card

information of the Applicants should be mentioned in the prescribed Application Forms.

1. Registration of Marriages under Hindu Marriage Act.
2. Registration of Marriages under Special Marriage Act.
3. Solemnization of Marriages.
4. Registration of various documents in Sub-Registrar Offices."

True typed copy of the order dated 20.12.2012 bearing NO. F.10.(6)/CCS/DivCom/HQRS/5130-5131 issued by the Government of NCT of Delhi is annexed herewith and marked **Annexure P-20** (pages 684 to 688)

- xlii. That on 22.01.2013, the Respondents have emphasized on the utility of the UID scheme on the basis of its usefulness in the LPG Scheme. However, replies to Petitioner's RTI clearly indicate that the claim is far from the actual ground realities. When queried on number of fake ration cards detected using UID, the Karnataka Government, in its RTI reply, said that several lakhs of "ineligible" ration cards were found without using UID / Aadhaar. It is stated therein that they have not used UID for de-duplication and the real problem is in issuing BPL cards by Food Inspectors to people who are not eligible. True copy of the RTI Reply

No. CFS/ AMC/ RTI/ 50/ 2011-2012 dated 22.01.2013
issued by the department of Food, Civil Supplies and
Consumer Affairs of the Government of Karnataka at
Bangalore is annexed herewith and marked as
Annexure- P-21 (pages 689 to 690)

- xliii. That by a notice dated 29.01.2013, the Passport Seva Kendra run by Ministry of External Affairs has itself advised the people of India that Aadhaar Cards would be accepted as proof of identity if it was used in conjunction with other documents, and thereby indicating that Aadhaar card is only one of the many documents that can be used as a proof of identity. It is stated therein that:

"The Ministry of External Affairs has decided and accordingly advised all Passport Issuing Authorities to accept Aadhaar Letter/Card as proof of address (PoA) and Photo identity (PoI) in conjunction with any other prescribed documents for proof of address/identity for the purpose of passport application."

True typed copy of the public notice dated 29.01.2013 issued by Passport Seva Kendra , Ministry of External Affairs, Government of India is annexed herewith and marked as **Annexure P 22** (pages 691 to 692)

- xliv. That on 22.04.2013, the Parliamentary Standing Committee in its 69th Report has yet again, *inter alia*, reiterated the view and doubted the efficacy of UID scheme as well the position of the Government to proceed without parliamentary backing. True copy of the Parliamentary Standing Committee's 69th Report dated 22.04.2013 is annexed herewith and marked as **Annexure P-23** (pages 693 to 759)
- xlv. That on 03.06.2013 & 15.06.2013, directions have been issued in the State of Maharashtra and also by the High Court of Judicature at Bombay directing that Aadhaar Number or Aadhaar Card Registration Number is required to be entered in the system for generating Pay Bills which clearly suggest that Aadhaar is not a voluntary scheme. True typed copy of the Government Resolution of Maharashtra Government dated 03.06.2013 is annexed herewith and marked as **Annexure P-24** (pages 760 to 761). True typed copy of the Circular dated 15.06.2013 issued by the Registrar, O.S. Prothonotary & Senior Master is annexed herewith and marked as **Annexure P-25** (pages 762)
- xlvi. That the UIDAI's claim that UID will enable financial inclusion is wholly unsustainable and further claims that it will help in minimizing leakages and correct

identification of target groups is also misleading and baseless. It is respectfully submitted that identity or identification does not lead to financial inclusion, but ability and skills to earn income facilitated through economic policies and the establishment of correct criteria to bestow the benefit leads to it. At a point in time when country's resources (especially in the form of disposable cash) has lessened, UID only seeks to be another *identity card* which has no real purpose. There is no material and pilot study to justify the said purpose, and further there are lesser means available for said inclusion. For instance Pradhan Mantri Jan Dhyan Yojna, 2014 which aims at financial inclusion itself does not mandate the use of Aadhaar card, but utilized other KYC documents, goes to show that financial inclusion can happen even without 'Aadhaar card'. It is submitted that in Pradhan Mantri Jan Dhyan Yojna, 2014, 'Aadhaar card' is just one of the KYC documents.

- xlvi. That for instance, in Mahatma Gandhi Rural Employment Guarantee Act (MNREGA), workers are paid their wages through a bank account or post office, and as such the process of payment to the workers is by and large fair and proper, and it is disproportionate to have UID project for the said purpose when the

same objective can be achieved by less intrusive and economical means. There is no reliable multi dimensional study of MGNREGA's project and how UID can be helpful, especially in the interior areas where connectivity is limited and banks do not have branches. It is submitted that the limited problem of payment to MNREGA workers arises only due to insufficient reach of banks and post offices, and the same cannot be overcome by provision of UID card. The UID Card can only link an existing bank account but cannot by itself provide payment to the workers. In fact, all the UID can do, is to replace the ordinary Know-Your-Client (KYC) procedure. Whilst, payment of wages through banks and post office has made wage corruption quite difficult, but other potential channels such as extortion (inflation of wages), collusion and deception (through middlemen), and fudging of attendance records still exist and are not capable of being dealt with by UIDAI's project. UID at best may be able to deal with deception, but cannot deal with inflation of wages and collusion, which can only be dealt by empowering the local people. Even in respect of social audits of projects in MGNREGA, the only limited use of UID could be in respect of biometric confirmation of identity with uncertain technology of

the participants in social audit and the same has no effect on the process of social audit. Further, the UID project promises to provide biometric attendance to MNREGA workers is actually far from being realistic. It is documented fact that India has a large part of population engaged in manual labor, which normally produces poorer biometric samples, leading to their exclusion, or higher chances of finger print mismatch. Linking of biometric attendance and payment through internet is another problem as the connectivity (including that of electricity) in interior parts of India is inadequate. These costs and factors have not even been estimated. Even the proposed door step banking proposed to be introduced lacks any rational thought behind, as the worker's wage is again routed through a middleman, making the worker vulnerable. In the United Kingdom, fingerprint biometrics proved them too unreliable as a means of verifying identity. People who had recently used hand cream created serious problems for the fingerprint readers, as did people with particularly hard or calloused skin, such as chefs, gardeners and labourers. True copy of DBT (AEPS) for Department of Rural Development Strategy Paper dated NIL is annexed herewith and marked as **Annexure P 26** (pages 763 to 767)

xlvi. That Respondent No.1 and Respondent No.2 have represented that UID project will improve access to government services, but there is no material basis in respect of the same. UIDAI officials have alleged that many Indians are 'deprived of government benefits merely because they do not have the required identity proof. It is submitted that there are two important causes, not linked to lack of identity proof, of exclusion of persons from Government programs. First, poor coverage related to low allocations for these programs and two, misclassification of people. Social welfare expenditure of India is not adequate to provide 'universal benefits'. In such a situation, the government as restored to making many social welfare schemes target to certain groups, whose identification is defined on criteria which may be flawed. For instance, identification of Below Poverty Line (BPL) families is based on censuses which is conceptually flawed and poorly implemented. The problem of the leakage in BPL is not on account of lack of identity proof, but due to improper assessment of eligibility of target group by the Government; and since UID does not itself incorporate 'income' criteria, UIDAI's/Respondent No.3's claim that UID will help prevent leakage is all false. Misclassification of families

in the BPL Census has little to do with identity fraud or duplication as is sought to be projected by the Respondents. Existing identity cards, in the form of election card, PAN cards, drivers' license are sufficient for the purposes of identification and UID is nothing but duplication of information. It is relevant to state that to Petitioner's knowledge there is no investigation into any of the so-called "leakages" of subsidies in any of the schemes. The Respondents have assumed that tagging biometrics to identification numbers will eliminate leakages, which is without any study or investigation in that regard and there is no material to support such a proposition. The said act is arbitrary, irrational and capricious and thus a violation of the Rule of Law. Further, no estimate investigation has been made of how subsidized food grains are pilfered from Government storage houses. They could be stolen and then written off as damaged grain etc.

- xlix. That another claim of Respondent No.3 / UIDAI is that of 'portability of benefits', which also is not tenable. Many other IDs are equally, if not more, "portable". Passports, for instance, are portable across the world. So are driving licenses. There is nothing unique about the claimed portability of UID / Aadhaar. Further, whilst UID itself is portable, distribution of benefits

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pose operational issues and is therefore not possible. It is submitted that the vast population of India, extent of geographical territories and limit on means available, have to be balanced by applying doctrine of proportionality. Given that PDS allocations are usually rationed, at the top, at State Level, the UID's promise to provide portability to food grain dispensation is only chimerical. While the problem of PDS cards in the hands of people ineligible for BPL rations does exist, this is not an issue that could be solved through accurate identification, since, it is caused by discretion vested in officials to decide eligibility. This is proved by replies received from the Karnataka Government through RTI. The attempt of Respondent No.1 to solve the said problem by rolling out disproportionately expensive UID card, based on the unsubstantiated assumption that bogus ration cards or "Ghost" ration cards exist, is irrational and arbitrary. In fact, there has been very little thinking and exercise that has gone into the process; and the process claimed to have been followed by Respondent No.1 and Respondent No.2 before launching the UID cannot, by any stretch, be called rational, one with application of mind, democratic or scientific. Therefore, the benefits of the UID Project to two of the major existing social welfare

programmes (NREGA and PDS) are virtually non-existent and uncertain. Identity cards such as passport, drivers license and voter ID (being used even in Rail travel) are also portable IDs, and the local use or availing of benefits PDS etc. in a local area naturally will depend upon residence and economic status in that area, and it is not as if any person can travel to a place and claim benefits.

1. That in *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat* reported at (2005) 8 SCC 534, para. 75, this Hon'ble Court has held that the standard of judging reasonability of restriction or restriction amounting to prohibition remains the same, excepting that a total prohibition must also satisfy the test that a lesser alternative would be inadequate. In the instant case, making of UID Card compulsory for access to public benefits, amounts to complete restriction conditional upon possession of UID card and therefore it has to satisfy the said test. Upon movement from one area to another, such local data relating to address, income etc. will require re-validation.
- li. That for every one of the applications of UID, be it in PDS or LPG; the practical problems are impossible to surmount. It is a misapplication of technology based on

whims and fancies, without testing or reasonable application of mind. not only that, there are many simpler, better and more efficacious ways of preventing leakages of welfare funds, for which the inappropriate, inapplicable, futile and extreme step of UID is unwarranted and is disproportionate. The UID / Aadhaar scheme does not stand the test of reasonableness and rationally accountable functioning of the executive, which is the essence of democratic governance. That, for example, when queried on number of fake ration cards detected using UID, the Karnataka Government, in its RTI reply, said that several lakhs of "ineligible" ration cards were found without using UID / Aadhaar. It is stated therein that they have not used UID for de-duplication and the real problem is in issuing BPL cards by Food Inspectors to people who are not eligible.

- lii. That Respondent No.1 and Respondent No.2 have attempted to extol the virtues of the UID scheme, particularly relating to the DBT (cash transfer of LPG subsidies to bank accounts of purchasers of LPG cylinders by linking the bank accounts to UID / Aadhaar numbers). The Respondents claimed that "Direct Bank Transfer LPG" (DBTL) scheme would

prevent leakage of LPG subsidies and that the pilot trials conducted by Oil Marketing Companies (OMCs) in certain districts proved this. The Petitioner states that the said claim is false. There is no adequate and reliable material with Respondent No.1 to show that it was not possible to deal with the situation within the framework of the existing laws under the Essential Commodities Act. Further, in so far as statistical details are concerned, the same can be done within the framework of existing legislations, such as Census Act.

- liii. That under the DBTL scheme the biometrics and LPG consumer data of all consumers would be linked to their respective bank accounts. Consumers are to book refill LPG cylinders over the phone to a specified number of the OMC providing the subsidized LPG to the said consumer. The booking order is then transmitted to the concerned LPG dealer's computer system. Each dealer is to equip himself with the required number of handheld devices, which are biometric scanners with connectivity to the OMC's and UIDAI's databases. On the scheduled delivery date the dealer's scanners would be automatically loaded with information on the deliveries to be made on the day. The information would include the LPG customers' names and addresses. The delivery person would carry

the scanners along with the LPG cylinders for delivery to the respective customers' houses. At each customer's house, the person in whose name the LPG connection is registered first pays the market (unsubsidized price of the LPG cylinder), then he / she has to place his / her finger on the handheld scanner, be remotely authenticated (through internet) in order for the subsidy amount to be transferred to his / her bank account.

- liv. That in the meanwhile this Hon'ble Court passed an order dated 23.09.2013, by which this Hon'ble Court had, *inter alia*, provided:

"In the meanwhile, no person should suffer for not getting Aadhaar Card in spite of the fact that some authority had issued a circular making it mandatory and when any person applies voluntarily, it may be checked whether that person is entitled for it under law and it should not be given any illegal immigrant"

Despite the said direction, there has been no change in the process adopted by Respondent No.3 to pay any special attention to exclude illegal immigrants. True typed copy of orders dated 23.09.2013 passed by this Hon'ble Court in Writ Petition (Civil) No. 494/2012 is

annexed herewith and marked as **Annexure P-27**
(pages 768 to 770)

lv. That vide order dated 21.10.2013, the Central Information Commission had directed that the information sought by the Petitioner with regard to the Contracts with foreign MNCs should be furnished. In compliance with order dated 21.10.2013 UIDAI who had earlier stated in RTI reply that the contractual obligations are over and hence they have no objections in giving contract copies, when they finally provided the copies, certain pages were found to be missing. Thereafter when the missing pages were sought, UIDAI in reply stated that non-disclosure agreement prevents them from giving the contract copies and the Petitioner once again approach the CIC. True typed copy of the order dated 21.10.2013 passed by the Central Information Commission is annexed herewith and marked as **Annexure P-28** (pages 771 to 773)

lvi. That on 19.12.2013, the UID Scheme is again based on the assumption that LPG subsidies are siphoned out using what the Respondents call, "Ghost Beneficiaries" or Duplicate connections. As a corollary the Respondents claim that if LPG consumers are uniquely identified using biometrics the alleged ghost

beneficiaries and duplicate connections would be eliminated and hence the leakage of subsidies prevented. The Petitioner submits that this too is a false claim. The Indian Oil Corporation Limited, one of three OMCs and the largest of these, has admitted in RTI reply to Appeal No. 80 of 2013 dated 19.12.2013 that they have NOT done any investigation study or analysis to find out how the LPG subsidies are leaked. True copy of the RTI Reply dated 19.12.2013 in Appeal No.80 of 2013 issued by the Indian Oil Corporation, Appellate Authority, Bandra, Mumbai is annexed herewith and marked as **Annexure P-29** (pages 774 to 776)

- lvii. That to further prove his submissions herein, along with another, the Petitioner personally carried out a personal study at Mysore and Tumkur in Karnataka of use of UID numbers, linked to bank accounts and cash transfer of subsidies through the "Direct Bank Transfer LPG" (DBTL) scheme. During the survey, the Petitioner interviewed LPG dealers and distributors as well as bank officials. The survey revealed that many consumers did not receive the subsidies in the bank, that the process was very cumbersome and impractical since, the delivery person has to make a number of

trips to deliver the LPG cylinder due to various reasons like, lack of connectivity, failure to authenticate the consumer's biometrics, absence of the person in whose name the LPG connection existed etc.

- lviii. That most significantly, one of the LPG dealers at Mysore stated that not a single domestic worker who is a consumer of LPG could be authenticated since, their fingerprints were not recognizable. It is submitted that UID Scheme cannot prevent a consumer from misusing the LPG cylinder for a commercial purpose, after receiving the subsidy in the bank. Hence, transferring subsidies to bank accounts does not serve the purpose. The misuse of the LPG cylinders cannot be prevented by UID scheme.

- lix. That the Petitioner submits that the Petitioner found during his survey that the DBTL pilot trials at Tumkur, Karnataka were conducted without biometric scanners showing the so-called trials were farcical and done without any serious or sincere effort to see whether the DBTL scheme is workable or not. That, it is submitted that if at all DBTL is to be done, UIDAI is not at all required for the purpose. The customer number of the LPG Consumer could very well be linked to the bank account. Since, deliveries of LPG cylinders are made at

the homes of the customers, biometrics are not required for authentication.

- lx. That the UIDAI scheme lacks logic and there is no rational in adoption of such a method. It is professed by Respondents that direct deposit of 'cash' is an empowering tool, whereas the fact is that it puts the recipients at the mercy of technology and no real purpose is served. Such a method is not tenable in view of doctrine of proportionality. It is submitted that storing of biometric information on a card is less intrusive than maintaining a database of the same, and all necessary information can be stored also on a chip on the card itself without the need for having a centralized database. It is also submitted that more personal the data is, the stronger should be the urgency of the State ought to be have it.
- lxi. That there is no provision for the residents to opt out from the UID project and information once given cannot be deleted or destroyed at the instance of the applicant-resident.
- lxii. That it would be obvious to anyone that this elaborate DBTL system simply cannot stop leakages of LPG subsidies. LPG subsidies are lost when the subsidized

LPG is used for non-domestic uses. The subsidy can never be siphoned out in cash, since the cash component of the subsidy is transferred to the OMCs by the government. Assuming, but not admitting, that LPG subsidies are siphoned out by misusing individual LPG cylinders, even after the cash subsidy is transferred to the consumers' bank accounts, nothing prevents the consumer from misusing the subsidized LPG cylinder for a non-domestic use, such as in a restaurant or in a vehicle. Considering the claim of the OMCs and MoPNG that several thousands of Crores of Rupees of LPG subsidies are lost every year, it is impossible for this to happen through misuse of individual LPG cylinders and connections. For such a huge quantum of leakage to occur bulk misuse or diversion of subsidized LPG has to take place. The Petitioner respectfully submits that this too requires detailed investigation.

- lxiii. That the Petitioner respectfully submits that the MoPNG and the OMCs have shown singular lack of diligence in not carrying out any investigation to find out how the subsidies are leaked, when they know and say that thousands of Crores of Rupees of subsidies

are siphoned away year after year. This is nothing but utter lack of responsibility.

lxiv. That the Petitioner respectfully submits that if there were more than one LPG connection in a home, that is, if there were two or more connections in the same residence, it would be equally easy for OMCs to detect the multiple connections from the addresses, especially when the cylinders are home-delivered. Sometimes, there could be two or more kitchens in a home, in a joint family set up for instance. Secondly, OMCs could very easily find out about the misuse of LPG cylinders for commercial purposes, simply by checking the consumption of cylinders against consumer numbers. The Petitioner respectfully submits that common sense dictates that if the subsidized cylinders were used for commercial purposes, the consumption would be much higher than if used for domestic purposes. That, it is submitted that if the justification for use of UID / Aadhaar numbers is that it uniquely identifies the consumer, the question arises, were the OMCs not aware as to who their customers were all these years.

lxv. That the Petitioner respectfully submits that he came across use of subsidized LPG cylinders in a number of public canteens including the Supreme Court canteen.

When he queried the OMCs through RTI on this matter, he received replies stating that these are a special category called "Non-Domestic Exempt Category Customer" (NDEC). On further querying he was informed that the total value of subsidized LPG consumed by such canteens is not available and / or cannot be disclosed being commercially confidential information.

lxvi. That the Petitioner respectfully submits that the facts in the aforesaid paragraphs clearly prove the so-called DBTL Scheme has been devised solely to justify the use of UID and identity authentication services and not for preventing leakages of LPG subsidies. For example, cash transfers of LPG subsidies could be easily done by linking the customer number with the bank account. There is no need at all for the UID number.

lxvii. That the usefulness the UIDAI's claims for the UID project is based on unproven and untested assumptions and there is no material to substantiate this supposition. The claims are merely meant to justify the project, whose real purpose is hidden from the people of the country. Thus, the UIDAI claims that the objective of the UID scheme is to provide identities to those who do not have identity. Strangely, the very

application for UID asks applicants to produce any of 14 or 15 other existing proofs of identity and address proofs like, PAN card, driving license, passports, ration cards etc. Initially, an "introducer" system for those who do not have any of these identities, was available. The said "introducer" system resulted in huge fraud, impersonation and generation of fake identities at Hyderabad, Bangalore, Delhi and other places. The said frauds are said to be under police investigation for over two years now, but nothing is known about the progress of the investigations, even though ordinarily investigations are to be concluded within 90 days.

lxviii. That the Respondents have also deceitfully promoted the UID Scheme as one which would 'give' an identity to the poor people who do not have identities. It is submitted that National Food Security Act, 2013 also envisages linkage of benefits under that ordinance to enrollment under Aadhaar, thereby restricting the benefits / largess under the said Act to UID holders, thereby exposing the involuntary nature of the scheme.

lxix. That it may hence be inferred that UIDAI is not providing identities, but taking people's existing identity documents and biometrics and then linking

them to a number and storing the information in a database and sharing them with their 'partner' organisations. UID has been given a brand name, which is normally meant for commercial products and services to market and promote these. "Aadhaar", the brand name is therefore not an ID card, as some seem to think and some others like to pretend, but a number in a database. The significance of this is that the holder of the UID identity cannot prove his / her identity, but would have to be authenticated by the database administrator.

- lxx. That even though no direct reference appears to have been made by Respondent No.1 and Respondent No.2 on the efficacy of UID in curbing and controlling terrorism and aiding policing in India, it is submitted that UID, when (and if) linked to National Grid (NATGRID), could allow the Government to monitor in real time all its residents. As the LSE study states, "Although Law and Order is a key motivation for the establishment of ID cards in numerous countries, evidence establishes that their usefulness to police has been marginal". Other countries such as Australia have given up the same.

lxxi. That the idea of a National ID Card in India originated in the aftermath of the Kargil War. A committee, called the "Subramanyam Committee", that was set up to go into the intelligence failure to detect the massive crossing of the LOC by the Pakistani military, opined that cross-border terrorism could possibly be tackled through a National ID Card. Appreciating the difficulties of such a humongous exercise the Committee cautioned that the ID Card should be tried in a few border districts and if successful, it could be extended to other parts of the country. The trial seems to have met with indifferent results. While so, it was in 2004 that the then NDA Government amended The Citizenship Act, 1955 to set up the National Register of Indian Citizens (NRoIC), which is often erroneously and mischievously called National Population Register (NPR). NPR and NRoIC are different and the Respondent No.1 is trying to pass off NPR as NRoIC. The Petitioner verily believes that decision has been taken by a GoM to task RGI to enroll half the population in NPR and UIDAI to enroll the other half of the population in UID / Aadhaar. As per reports available in public domain and perused by the Petitioner, which the Petitioner undertakes to produce if called upon by this Hon'ble Court, the two databases

are proposed to be merged later. Since, UIDAI is for residents and NRoIC is only for citizens, knowing that such a merger of the two databases would be impossible and questionable, perhaps to circumvent the difficulty, RGI's database is termed NPR making it appear that it too is not a database of citizens only. In fact, the Petitioner relies on certain media reports that stated that some persons accused of terrorist activities and illegal immigrants have been found to possess Aadhaar card. True copy of one media report concerning possession of Aadhaar card by terrorists/illegal immigrants dated Nil is annexed herewith and marked as **Annexure P 30** (pages 777 to

779)

- lxxii. That whilst maintaining that NRIC under Section 14-A of the Citizenship Act, 1955 is arbitrary, it is submitted that the basic data required for NRIC can only be collected by door-to-door, house-to-house visits by persons detailed by the Registrar General of India and Commissioner of Census (RGI & CC). Private companies cannot be used for this purpose. It is submitted that whether a person can be included in the NRIC cannot be decided by the person entering the names in such a register, and the same is arbitrary.

lxxiii. That there is no provision per se for capturing biometrics in the Citizenship Act, 1955 and such a provision ought to be legislatively provided, if it were thought necessary and useful to do so and the necessity for collection of biometrics justified through sound rationale. It is submitted that NPR is claimed to be first step towards NRIC (and not NRIC itself) because NPR is a register of 'residents' and not of 'citizens'. The RGI, Respondent No. 5 herein, has added the collection of biometrics in process of enrolling people in NPR, just as the UIDAI has done for UID / Aadhaar. - Both for NPR and UID / Aadhaar, photographs, fingerprints, and iris are being collected without statutory basis. It is submitted that if a person enrolls only for NPR, which has been made compulsory by Respondents, and does not enroll in the UID Scheme, even then UID number is allotted to such a person.

lxxiv. That the Registrar General / Respondent No. 5 who is responsible for preparation of the NRoIC, which is being projected as NPR, does not have a biometric service provider of its own. Respondent No. 5 is availing of the services of M/s B.E.L, which in turn utilizes the platform proffered by UIDAI. The Petitioner has been informed by officials of M/s B.E.L. that M/s B.E.L. is

given a code, using which it downloads software from a portal of UIDAI, which software is provided to UIDAI by foreign contractors. The biometric data is collected through UIDAI approved scanners. These UIDAI approved scanners and are based on foreign private company technology, of UIDAI's contractors and foreign private companies whose software UIDAI has contracted to use. UIDAI has refused to disclose details of the contracts with these foreign firms even after the CIC so ordered and the Petitioner verily believes that Respondent No.1 to Respondent No.3 are for no good reason wanting to keep the details hidden also from this Hon'ble Court. They are bound to disclose the history, origin and control of each of the contractors and sub-contractors.

lxxv. That this Hon'ble Court passed an order on dated 24.03.2014 passed in SLP (Crl) No. 2524 of 2014, wherein it was directed:

"In the meanwhile, the present petition is restrained from transferring any biometric information of any person who has been allotted the Aadhaar Number to any other agency without his consent in writing. More so, no person shall be deprived of any service for want of Aadhaar

Number in case he/she is otherwise eligible/entitled. All the authorities are directed to modify their forms/ circulars/ likes to as to not compulsorily require the Aadhaar Number in order to meet the requirement of the interim order passed by this Court forthwith"

True typed copy of the order 24.03.2014 passed by this Hon'ble Court in SLP (Cr) No. 2524 of 2014 (UIDAI & Anr v. CBI) is annexed herewith and marked as **Annexure P-31** (pages 780 to 781)

lxxvi. That on 27.03.2014, the Petitioner verily believes that a media sting operation in 2014, revealed that fake identities being generated on payment of paltry sums as low as Rs. 1000.00 (Rupees One Thousand). The TV sting operation was carried out in 12 locations in the Nation's capital - Delhi. The locations where the sting operations were carried out included, the SDM's office in Tis Hazari court, a DC's office and such prime government locations where EAs were enrolling people in the UID Scheme. Despite the fact that the details of this fraud is publicly available none of the Respondents appear to have taken any action. The sting operation reveals that one of the enrolling centers at Bhopal where the fake IDs were being generated is located next

to the CBI office in that City. True copy of the transcript of the sting operation of Cobra Post dated 27.03.2014 is annexed herewith and marked as **Annexure P-32** (pages 782 to 799). True copy of the Video **P V D** dated 27.03.2014 is annexed herewith and marked as **Annexure P-33** (pages 791)

lxxvii. That 30.04.2014, the Petitioner as a personnel of defence verily believes that a possibility of such 'residents' using Aadhaar card as identity proof to lie low in India to carry out espionage activities cannot be ruled out; and this is not merely possible, but most probable. Further Respondents have not considered said factors at all before launching the UID project as well the NPR, which are both interlinked. It is submitted that when large amount of public money is involved in an activity, that activity has to be scientifically, economically and legally well thought out and studied, and is the basic requirement under rule of law and republic governance under the Constitution. Vide order dated 30.04.2014, while disposing of the I.A. No.1 in Contempt Petitioner (C) No. 144 of 2014 in Writ Petition (C) No. 494 of 2012, this Hon'ble Court had been please to direct that the issue of issuance of Aadhaar Card to illegal immigrants shall be considered

at the time of final hearing. True typed copy of the order dated 30.04.2014 passed by this Hon'ble Court in I.A. No.1 in Contempt Petition (C) No. 144 of 2014 in Writ Petition (C) No. 494 of 2012 is annexed herewith and marked as **Annexure P 34** (pages 792 to 796)

lxxviii. That even though the Respondents have never mentioned the use of UID / Aadhaar for anti-terrorism purposes or preventing illegal immigration, the idea seems to be to use it for these. Many people, especially in governments, including the Respondents, egged on by (biometric technology) business lobbies, hold the wholly erroneous opinion that a database, such as UID, or a national ID card would help governments to combat terrorism and prevent illegal immigration. It is submitted that there is no evidence to support this view. It is submitted that the fingerprint evidence is not unimpeachable. On the contrary, UID Card can and has been easily faked. Expert opinion available in public proves the fallibility of biometric and database systems for such applications. The Petitioner submits that the expert views completely demolish the claims of the Respondents and should serve as a caution to all those who hope that systems such as UID / Aadhaar would be of any use. The Petitioner believes the

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contents of the said newspaper LSE Study, articles and magazine to be true and correct. Article in "Technology" section of 'The Economist' – a highly reputed magazine, titled, "Biometrics – Dubious Security" and another article in 'The Times' UK, authored by Prof Ian Angell, head of Information Technology at LSE's management department, titled, "ID Cards – Ultimate Identity Theft. True typed copy of Article in "Technology" section of 'The Economist'– a highly reputed magazine, titled, "Biometrics – Dubious Security dated Nil is annexed herewith and marked as **Annexures P-35** (Page No. 797-804).

lxxix. That there is little difficulty posed by absence of identity card itself. Such cards have limited utility. Biometrics does not in any way enhance their value or utility, except to create a false sense of security, while merely adding profits to the coffers of the technology supplying companies. Real difficulty in policing is in the investigation and collection of evidence. UID and its central database are of no use for such purposes. A central database only makes it more vulnerable, and as the LSE expert, Prof Ian Angell says, the database itself becomes a target of the terrorists. There is widespread corruption in India and there is no confidentiality of the data collected by Respondent No.3, through private

firms of questionable credentials, quite a few of who have indulged in or facilitated criminal activities, some of which are under police investigation and some others simply ignore. The information collected under UID scheme is valuable to criminals and for criminal activities and this makes the citizens vulnerable as well. In fact, the unstated argument and presumed utility of UID for identification of 'terrorist' and 'criminals' is founded upon the false premise that a central biometric database of the Nation's residents will somehow or other aid in either apprehending criminals and terrorists after their acts and / or prevent them from carrying out such acts. Even if this were so, (in fact, this is not at all possible) the Nation would have to be converted to a surveillance state and everyone watched all the time to achieve such pernicious objectives. Our democratic Constitution does not permit such state surveillance. UID therefore is the first step towards profiling, tracking and stereotyping. Further, mere production of ID cards by people, upon demand by the police, would neither absolve such persons from suspicion, nor would it prevent them from indulging in criminal activities.

lxxx. That virtually there is no restriction on sharing of data by Respondent No.3 and it cannot be ruled out that

Respondents may utilize the information so gathered for purposes other than for which the information had been gathered that too without intimation to the person whose information is been exchanged. In fact, right now Respondent No. 1 is doing so. Biometric data collected under UID Scheme and NPR are being used for monitoring attendance of central government employees, a use that was never visualized or stated ever. There is also no check on what can be added to a person's data. A person can never know what data is added to his profile in the database. It is submitted that updating demographic and biometric data of population poses insurmountable challenges and vulnerabilities.

lxxxi. That various other countries, with robust constitutional democracies like India have attempted to establish a regime to compulsorily identify all its residents and citizens, but realized that it was neither possible nor would it meet objectives such as improving efficacy of government welfare services or anti-terrorists operations. However, in all such countries, described below, the said attempts were subsequently abandoned because they were found to be invading privacy, did not have any utility, were a

colossal waste of public money and were hugely disproportionate.

lxxxii. That the Parliament of the United Kingdom passed the UK National ID Card Act, 2006 which was repealed subsequently by UK Identity Documents Act, 2010. The Act of 2010 provided for destruction of information recorded in the National Identity Register. The National ID Card Act called for setting up a database of all UK citizens with biometrics and personal information. The UK system aimed at creating National Identity Register, was professed to be based on "Public Interest", and Section 1(4) of the said Act defined public interest

(4) For the purposes of this Act something is necessary in the public interest if, and only if, it is—

- (a) in the interests of national security;
- (b) for the purposes of the prevention or detection of crime;
- (c) for the purposes of the enforcement of immigration controls;
- (d) for the purposes of the enforcement of prohibitions on un-authorised working or employment; or
- (e) for the purpose of securing the efficient and effective provision of public services."

lxxxiii. That the Government of United States of America, also in 2005, passed the Real ID Act, to incorporate biometrics into driving license, but the same is not implemented. Australia tried a National ID Card system for 20 years but the same had been abandoned recently.

lxxxiv. That in addition to the various other grounds, it is necessary to state that the Respondent No.3's UID scheme under the aegis of Respondent No.2 is violative of person's right to privacy and right to be let alone.

lxxxv. That the Right to Privacy has been recognized by this Hon'ble Court, in *Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632 to be "implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a "right to be let alone"". Further, it is also pertinent to note that in General Comment No. 16 to Article 17 Right to Privacy in the International Covenant on Civil and Political Rights to which India is a signatory State Party emphasized that:

"The gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law. Effective measures have to be taken by States to

ensure that information concerning a person's private life does not reach the hands of persons who are not authorized by law to receive, process and use it, and is never used for purposes incompatible with the Covenant. In order to have the most effective protection of his private life, every individual should have the right to ascertain in an intelligible form, whether, and if so, what personal data is stored in automatic data files, and for what purposes. Every individual should also be able to ascertain which public authorities or private individuals or bodies control or may control their files. If such files contain incorrect personal data or have been collected or processed contrary to the provisions of the law, every individual should have the right to request rectification or elimination."

- lxxxvi. That the European Court of Human Rights in *S and Marper v. United Kingdom*, (2009) 48 EHRR 50 while interpreting Article 8 (1) of the European Convention on Human Rights (ECHR) which provides for Right to a Private Life has held that, "[T]he mere retention and storing of personal data by public authorities, however obtained, are to be regarded as having direct impact on the private-life interest of an individual concerned,

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irrespective of whether subsequent use is made of the data."The German Federal Constitutional Court also adopted a similar approach in the case of the Census Act (BVerfG 15 December 1983, BVerfGE 65, 1, 43 - Census Act Case (Volkszählung)) which involved a challenge to the National Census Act 1983, which placed an obligation on every household to fill in and return a census form for the collection of statistical data. It is pertinent to note that the the Court held that the protection of 'informational self-determination' fell within the ambit of the 'right to the free development of one's personality' under article 2(1) of the German Constitution.

- lxxxvii. The UID project results in 'convergence' of information, in that, various pieces of information that we hand over to a range of agencies can be conveniently linked through a central common factor, allowing any person to have full information about a person. Such individual pieces of information are called "silos", which are like distinct towers holding information. UID makes it possible to converge and link all such silos of information. Not only does convergence of information, about which the citizens are not informed, be shared with 'partner' organisations by UIDAI, but also it is capable of being utilized to profile individuals and

exposes them to market and other forces in ways which are intrusive and which could make them insecure and vulnerable. The convergence of said "silos" of information violates the right of privacy of the citizens of India. By way of example, it is stated that while UID enrolment form itself does not seek information concerning ones' religion, the same is easily discernable from a person's name. Further, the application form of certain banks (which UIDAI aims to connect with UID) require a client to disclose information such as caste, income, religion etc. By linking UID with such information, it is possible for anyone person having access to UID database to profile the population on the basis of any of the identity traits. That with UID as the key, the profile of any person can be unlocked. True copy of the UID enrollment form dated NIL is annexed herewith and marked as **Annexure P-36** (pages 805 to 806). True copy of Bank Account Opening Form of State Bank of India dated NIL is annexed herewith and marked as **Annexure P-37** (pages 807 to 814).

lxxxviii. That even as per the Impugned Notification, which permits sharing of information, Respondent Government of India has not laid down any criteria of

on what basis and with which organizations can the information so recorded under the UID be shared. In absence of a legislation, governing the use and sharing of information, the enabling clause in Impugned Notification cannot be utilized for sharing of information by Respondent No.3 and any such sharing is wholly illegal. It is submitted that UIDAI itself appears to have adopted a "Data Sharing Policy", which lacks statutory backing. The said policy provides:

"6. The data would be shared with State Registrars only for the purpose of improvement of delivery of welfare and public services, it also being the intent behind the aadhaar project and purpose for which the consent has been given by the resident at the time of enrolment.

7. Demographic data may be shared with financial institutions (banks, etc.) for opening of Bank accounts and/or linking the accounts with aadhaar, as consented by the resident at the time of enrolment or subsequently.

8. Data may be shared as warranted under any Act/Statute/Regulation of Govt of India and/or any Cabinet Decision in this regard.

9. State Registrars may use the shared data with their various departments for the purpose of

improving delivery of their welfare and public services but the Nodal Department shall be responsible for ensuring Security Compliance.

.13. The necessary framework and institutional safeguards as per the IT Act 2000 and all guidelines / rules/ enactments of the Government of India for ensuring the data safety and security at all times would be put in place by concerned Registrar before sharing of any data...

h. Failure to comply with any of above obligations shall be deemed a serious breach by the Registrar concerned with whom data shared by UIDAI and the said Registrar shall destroy the shared data with the time specified by UIDAI, without prejudice to any damages, which UIDAI may seek.

lxxxix. That there are almost no checks and balances in sharing of private information. In fact, even under the Right to Information Act, 2005 for sharing of private information, notice to the affected party is required, however there is no such provision under the said policy. Further, the so called "consent" referred to under the Data Sharing Policy, and relating to the consent at the time of enrolment is nothing but a vague sentence printed in fine print. True typed copy of the

Data Sharing Policy dated NIL prepared by UIDAI is annexed herewith and marked as **Annexure P-38** (pages 815 to 820)

- xc. That the Respondents are not upright and honest in their disclosure of the scope of the UID to the people of India. The entire project, which is based only upon the lone Impugned Notification, scuttles the democratic process, in that there is no public consultation that precedes the rolling out of the UID scheme involving huge public finances. Further, the appointment of private sector companies for collection of data and avoidable corporatization of the UID project, coupled with large dependence on 'borrowed' foreign technology, which is only 'licensed' to Respondent No.3 makes the project vulnerable to anti national elements.
- xcii. That the residents have not been informed as to for which purposes the information under UID could be utilized. The residents of India are only informed that the information could be shared with partners keeping everything else under the curtain. It is submitted that it is the concomitant right of the resident who provides information about himself including his biometric details to be fully informed about the possible future uses of the information. It is submitted that the

consent obtained from residents for enrollment under UID is ill-informed and invalid.

- xcii. That there is a complete disregard of equality before law and non-arbitrariness, wherein the Respondents are using private companies to identify 'Indians' and to store the personal data of the people of India for facilitating exploitation of the data and details. The Petitioner has learnt and verily believes that UIDAI has publicly asked businesses and others to "Develop (business) applications" using the data, while pretending that the UID scheme is one which would help the poor access welfare benefits, and in fact NASSCOM has even encouraged enterprises to develop applications based on UID / Aadhaar.
- xciii. That the Petitioner most respectfully prays that no law can legitimize the handing over or facilitating the access of personal data of the people of this country to foreign private or government entities and private Indian companies since, it would violate the fundamental rights of individuals and is beyond the power of the legislature.
- xciv. That it is respectfully submitted that while humbly praying for setting aside the actions of the Respondents

over the past 5 years as illegal, the Petitioner submits that it is essential to order a Court-monitored investigation into the national security aspect and the role of foreign intelligence agencies, through the involvement of foreign MNCs who are owned and managed by former officers of US intelligence agencies and who provide identical services to the intelligence and Defence departments of USA and Pakistan and corruption indulged in by private firms who UIDAI, Respondent herein, has empaneled and authorized to collect personal, biometric and demographic data of the people of this Nation through the UID project. It is further most humbly submitted that Court-monitoring of such an investigation is imperative since, the highest functionaries of government are involved in promoting the UID scheme and powerful private entities have large commercial stakes in it. The Petitioner further most humbly submits that this Hon'ble Court, if and when, it strikes down the UID project, as illegal, also order the destruction, under independent supervision, of all the data collected thus far and stored in a database, which UIDAI claims to own, as has been done by the United Kingdom, when they abandoned an identical scheme in 2009.

xcv. That the Petitioner has learnt from information in public domain which he believes to be true and from replies received by him to his RTI queries from UIDAI that, the Respondents have given contracts to foreign multinational companies (MNCs) without due diligence, in violation of mandatory government procedures and thus flouted rules as well as compromised national and personal security of the people of this country in doing so. M/s L 1 Identity Solutions, is one of these MNCs. This company has as its directors, former US FBI and CIA officers. It provides services and programs akin to UIDAI to US intelligence agencies and other countries like, Pakistan. The UIDAI in replies to RTI queries stated that he is not aware of the country of origin of this company and other MNCs who were also given contracts for the UID project, whereas the same is false as the same can be easily gathered from the description of parties in the contract documents. In any event, it goes to show that even basic due diligence known to be done in award of government contracts has not been done in award of biometrics contracts. In fact, the Petitioner believes from his experience in dealing with defence sector that government procedures stipulate that before entering into contracts

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with any pay their antecedents of the company and its officials are to be thoroughly checked. Respondent No. 3 would very well know this having been head of a major international company. UIDAI in an RTI reply stated that he is not aware of Form 44, a basic document that all foreign companies are to file with the Registrar of Companies before commencing business operations in India. This is either a false statement willfully made to hide the truth or is one born out of ignorance. In either case, it would render the contracts null and void. Despite the Petitioner's attempts before the Central Information Commissioner and orders of the Central Information Commission, the Respondents have not provided till date the complete set of documents relating to contracts between UIDAI and the said contractors. This can only be explained as an attempt to prevent such essential information of immense public importance to reach in public domain. True typed copy of chart including list of dates dated NIL prepared by the Petitioner depicting the antecedents of the contractor companies and their parent-sister concern is annexed herewith and marked as **Annexure P-39** (pages 82 to 87).

- xcvi. That the Respondent No.3 has employed, through a cavalier process of "empanelment", a large number of private firms, as "Enrolling Agencies" (EAs) who are to be chosen by UIDAI's registrars for outsourcing through contracting the work of collecting demographic and biometric information of the people of the country. From the original list of 209 such firms, about 56, that is one fourth, have been removed for fraud and / or incompetence from the list of empanelled agencies. These enrolling agencies have been discharging their responsibilities in a callous and negligent way and the relevant documents and computers systems are often left un-attended.
- xcvii. That there is no supervision of these enrolling agencies and apart from a solitary contract there is no other checks and balance. There is no check on the scanners, computers and devices like, USB drives they use. It would be very simple for anyone to steal data. In Bangalore, the EA had subcontracted enrollment work to another firm, which took money from other firms to further subcontract the enrollment work. The UIDAI's office was not aware of this until a disagreement

between two sub-sub-contractors led to the unearthing of the crime, when a dissatisfied sub-sub-contractor complained to UIDAI local office about being charged more than others for obtaining the illegal sub-contract work. The Enrolling Agency involved in this fraud has two of its "sister" concerns, apparently owned and managed by the same family with offices situated in the same area in Delhi still operating as EAs of the UIDAI.

xcviii. That Respondent No.3, UIDAI is deliberately hiding information about the foreign MNC contractors. Even though the country where a company is incorporated or under whose laws the partnership is organized and even the shareholding patterns is fairly evident from the basic records, Respondent No.3 has replied to one of the RTI queries on 21.07.2011 stating that "There is no way of verifying the country of origin of the companies".

xcix. That as the Respondent No.3 had not provided the information directed by the CIC vide order dated 21.10.2013 to be provided to the Petitioner,

the Petitioner thereafter again appealed to the CIC who vide order dated 03.09.2014 directed the Registry to examine the Matter concerning compliance with order dated 21.10.2013. The matter was in accordance with order dated 03.09.2014 examined by the registry and placed before the Commission who was in turn directed to communicate to the Respondent No. 3/UIDAI (which was done through letter dated 14.10.2014, a copy of which was sent to the Petitioner) that Respondent No. 3 should within two weeks of receipt of the order provide to the Appellant the limited information i.e. financial quotation/price quoted by the third party firms in the subject tender. As regarding the remaining information concerning the Technical Bid and Commercial Bid, it was observed that Respondent No. 3's decision vide letter No. F-12013/ 096/ 2012/ RTI-UIDAI dated 20/12.2013 to deny this information to the Petitioner after following third party information procedure laid down in Section 11(1) of the RTI Act was in conformity with decisions of the High Court. It was further stated that there shall be no disclosure with regard to the information concerning the Technical Bid and

Commercial Bid as it falls under the exemption category of Section 8 (1) (d) of the RTI Act. The Petitioner submits that as a member of public the said information is required to be made available to him as well as to this Hon'ble Court. True copy of order dated 14.10.2014 passed by CICM Bhikaji Cama Place, New Delhi is annexed herewith and marked as **Annexure P-40** (pages 828 to 830)

- c. That at this point, to the best of knowledge of the Petitioner, it is relevant to note that the authentication software and equipment are provided to UIDs by private firms is through their proprietary software, which the Petitioner believes is only licensed to UIDAI. This means that the MNC has ultimate control over authentication of our people's identities as well as all transactions, which would be linked to UID / Aadhaar, like DBTL for LPG or PDS.

- ci. That due diligence demands that an entity representing the Government entering into contracts verify the antecedents of the contractors. It is inconceivable that the UIDAI has

not taken this basic step before entering into contracts. The Petitioner respectfully submits that UIDAI has made the above false statement that "there is no way of knowing the country of origin of the contractors" to hide the name of the contractors to avoid public scrutiny of the firm's close links to intelligence agencies of foreign countries.

cii. That if these contractors are subject to laws of other countries (like the National Security Act of USA), then they could be compelled by such other countries to disclose information under the laws of that country, without any reference or notice to India. For instance, one of the contractor (such as M/s Accenture Services) being a US company can be compelled under the laws of United States (National Security Act,) to disclose information held by them. Therefore, the data of Indian residents held in database by such companies or accessible by them can be disclosed to the United States.

ciii. That international norms that can be inferred from various authorities such as the United

Nations General Assembly Resolution on the right of privacy in the digital age, passed on December 18, 2013 and the General Comment of the United Nations Human Rights Committee on the right of privacy, family, home, correspondence, and protection of honour and reputation, under the International Covenant of Civil and Political Rights (ICCPR), expressed in 1988, demands that working of State Surveillance be subject to legality through clear and precise law, which law itself must look to safeguard the right to privacy. It is also pertinent to note that the above authorities also recommend transparency in the use of State surveillance techniques and powers. Therefore it is submitted that in order to comply with these standards State surveillance must function with legality and transparency.

civ. That Respondent No.1 has launched www.attendance.gov.in which carries attendance information of enrolled Government Offices and Tribunals. It is submitted that in order for an employee's attendance to be marked in the Biometric Attendance System; it is necessary for the employee to obtain /enroll under the Aadhaar Scheme and have UID number. It is submitted

such approach is in direct contravention of the order passed by this Hon'ble Court on 23.09.2013, and as such in the interim the Writ Petition seeks interim reliefs which are of urgent nature, especially given that Union Government is one of the largest employers. True typed copy of the FAQs on Biometrics Attendance Sysem (BAS) dated 24.10.2014 downloaded by the petitioner from the website attendance.gov.in is annexed herewith and marked as **Annexure P-41** (Page_ 831 - 835)

7. That the petitioner has not filed any other writ petition in the nature of Public Interest Litigation under Article 32 of the Constitution of India before this Hon'ble Court or any other court for similar relief sought in the present Writ Petition.
8. That the petitioner is having no other alternative and effective means but to approach this Hon'ble Court by way of filing the instant Writ Petition (PIL) before this Hon'ble Court, *inter alia*, on the following grounds:

G R O U N D S

The Petitioner urges, *inter alia*, the following grounds in support of the prayer:-

- A. BECAUSE the impugned notification dated 28.01.2009 constituting Unique Identification Authority of India / Respondent No. 3 by which Respondent No. 3 has

been authorized to issue Aadhaar numbers to residents of India which adversely affects the fundamental rights of citizens does not amount to "law";

- B. BECAUSE any infringement or restriction on fundamental right (right to fair treatment, right to privacy and right to right against forced disclosure of information) can only be done by way of a statute;
- C. BECAUSE collection of personal information including biometric and IRIS print cannot be given effect to pursuant to an executive action under Article 73 of the Constitution of India;
- D. BECAUSE Respondent No.1 had taken a categorical plea before the Parliamentary Standing Committee examining the National Identification Authority Bill, 2010 that the enactment of the statute is necessary itself goes to show that UID scheme cannot be implemented except by means of statutory provision;
- E. BECAUSE the compulsory collection of personal data for the purpose of preparing a database is violative of Articles 14 and 21 of the Constitution of India and such collection cannot be legally done even pursuant to statutory provisions;
- F. BECAUSE the conduct of Respondent Government in proceeding with UID project despite report of Parliamentary Standing Committee and lapse of

National Identification Authority Bill, 2010 amounts to fraud on the Constitution and is nothing but a manifestation of attempt to escape accountability in a democratic set up;

- G. BECAUSE by means of the impugned notification dated 28.1.2009, juristic status has not been conferred on UIDAI/Respondent No.3 and it is incapable of either entering into contracts or agreements or holding any property;
- H. BECAUSE the notification dated 15.03.1950 by which the Planning Commission had been constituted does not empower the Planning Commission to deal with any subject with which UID purports to deal and, therefore, the impugned notification is bad in law in that it puts under the "aegis" of Planning Commission a function which Planning Commission is not empowered by law to perform;
- I. BECAUSE roles and responsibilities of UIDAI as specified in the impugned notification show that Respondent No.1 has deprived the Parliament of its "essential law making function", which under the Constitution cannot be appropriated by any Executive;
- J. BECAUSE Aadhaar is being issued without any proper verification, by private companies, which are being

appointed as contractors without necessary background check;

- K. BECAUSE the Petitioner has reliably learnt that the contractors appointed for UID project are foreign companies which are under investigation for fraud, and/or provide information to other countries, and the contractors have been appointed without having due regard to the sovereignty and integrity of India. The contractors and sub-contractors whose credibility is questionable are the sole persons to decide whether a person has to be categorized as the resident of India and thereby allows sufficient room for espionage activities under the umbrella of UID project;
- L. BECAUSE linking of Aadhaar and other silos of information such as bank account, passport, income tax return, registration of property and others necessarily compromises on privacy of every individual;
- M. BECAUSE the Aadhaar scheme / UID project cannot achieve any of the objectives it is supposed to and is entirely disproportionate to said objectives;
- N. BECAUSE the project is capable of being judicially reviewed under the doctrine of proportionality which requires a three-fold examination of – (a) whether the object sought to be achieved is permissible in law; (b) whether there exists a rational nexus between means

and object; and (c) whether the means used to achieve those objectives are proportionate; and there is no material or study available with Respondents to embark upon UIDAI or even to proceed with it;

O. BECAUSE the UID project even though is being claimed as voluntary but is being implemented by "Registrars" as a compulsory project with no option to a resident to either opt out or have his information destroyed. The Government resolution issued by the State of Maharashtra and other orders issued by Government of NCT of Delhi clearly establishes the element of compulsion being brought in by Government organisations notwithstanding the claims of UID. The element of compulsion affecting liberty and freedom can only be introduced by an Act of Parliament and, therefore, "law" has to be law enacted by Parliament;

P. BECAUSE the collection of biometric information is not possible in large number of manual labourers in India, finger print in whose hands has worn out because of manual work. Since UID is aimed at delivery of targeted Government benefits to such class of persons, clearly UID project misses the mark; and clearly less disproportionate means are available to the Respondents;

- Q. BECAUSE once the information is available with the Government, which was initially collected and consent for which was taken under the premise of it being used for provision of services, the same can be used for intelligence purposes and can also be used for profiling. The consent of residents is being obtained by means of a vague fine print in the Aadhaar enrolment form which is clearly circumventing the very objective of "informed consent";
- R. BECAUSE the professed aim of UID, i.e., "plugging of leakages in targeted Government schemes" cannot be achieved by UID project in that the leakage arises due to - (i) misclassification and not due to lack of identification of a beneficiary or class of beneficiaries; and (ii) because of fraud and coercion to which the beneficiaries may be subjected; and there is no lack of identity per se that leads to said "leakage". Mere provision of an identity card to them or linking their bank account to that would not serve the purpose. Therefore, the object of UID is not capable of being achieved by distribution of Aadhaar numbers; and the DBTL through UIDAI scheme is a farce and does not achieve the object for which it was created;
- S. BECAUSE UID scheme and DBTL cannot prevent a domestic LPG cylinders from being used for commercial

purposes, which can only be done by a proper law enforcement agency, and, therefore, UID cannot replace or even aid such enforcement agency. UID can also not prevent generation of fake purchase invoices of LPG cylinders;

- T. BECAUSE the linkage of UID / Aadhaar number with bank account is laden with huge difficulties in that it has been documented that labourers have not received their wages because authentication process could not be run due to lack of connectivity, poor quality of fingerprints of manual workers and lack of power supply in remote areas; and further the government schemes do not achieve 100% efficiency due to corruption in the lower rungs at enforcement level, which is not dealt with and is not capable of being dealt with by Aadhaar.
- U. BECAUSE Section 14-A of the Citizenship Act, 1955 which makes it compulsory for every citizen to get his details entered into National Register of Indian Citizens is ultra vires of the Constitution of India. It is not the mandate of the Citizenship Act to collect statistics and details of residents and citizens in India which detail is to be collected only under the Census Act. Section 14-A does not fit in in the scheme of the Citizenship Act, 1955, and whether or not a person's name has to be

included as a citizen in the NRIC cannot be decided by the officer entering such details in the National Population Register; and further, it seeks to collect private data of the citizens without providing for any restriction on its disclosure, use and transmission;

- V. BECAUSE, Section 14-A of the Act mandates National Register for Indian Citizens and not National Population Register; and because the information being collected by private agencies through software owned by foreign contractors and companies having links with US Intelligence agencies; and the Registrar General is also utilizing the same foreign software licensed to UIDAI and infrastructure and exposes Indians and India to security risk.
- W. BECAUSE even the professed object of UID is a complete farce because the information collected under the said scheme is not being used for the singular purpose of identification of beneficiaries but is capable of being shared with partner and other organisations (private and government) which may include law enforcement agencies, intelligence agencies, private corporations assisting Government in public-private partnership projects, and privately owned corporations;
- X. BECAUSE in absence of a data protection law in India which regulates how private data available to

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organizations (governmental and non-governmental) will be utilized by them, such collection of data infringes on a person's right to privacy and security; and because UID and NPR schemes have been devised without application of mind, without proper legislation checks, irrationally and whimsically in violation of the Rule of Law;

- Y. BECAUSE telephone tapping and sharing of call records under the Indian law is regulated by statute, information of similar nature disclosing person's private conduct has to be provided only by statute;
- Z. BECAUSE the cost and the money involved in enrolment of people including the cost of enrolment of incremental population every year would be several times higher than the value leakage that the UID seeks to plug in. The means that are being used to achieve the professed objectives are highly disproportionate and the Petitioner as a taxpayer has right to demand accountability of the monies vesting in the people of India.

9.

P R A Y E R

For the facts and circumstances as afore stated, the Petitioner herein most respectfully submits that this Hon'ble Court may graciously be pleased to:

- (a) Issue a writ, order or direction in the nature of certiorari quashing the impugned notification dated 28.01.2009 (Annexure – P/4) issued by Respondent No. 1;
- (b) Issue a writ, order or direction in the nature of certiorari setting aside the Order dated 03.07.2012, (Annexure-P/18) passed by the City Civil Court, Bangalore in O.S. No. 8181 of 2012, wherein the Ld. Judge dismissed the suit under Order VII Rule 11 with costs of Rs. 50,000/- on the ground that Aadhaar scheme is useful and is anyway a voluntary scheme, and no cause of action exists.
- (c) Issue a writ, order or direction in the nature of mandamus directing Respondent Nos. 1, 2, 3 to destroy all the information collected pursuant to the impugned notification wherever it may be stored and file an affidavit of compliance before this Hon'ble Court, and further be pleased to declare all actions taken pursuant to the impugned notification dated 28.01.2009 as void ab initio.
- (d) Issue a writ, order or direction in the nature of mandamus declaring Section 14-A of the Citizenship Act, 1955 as *ultravires* the Citizenship Act, 1955 Act and the Constitution of India;

- (e) Issue a writ, order or direction in the nature of mandamus declaring that the exercise of preparation of National Population Register being prepared by Respondent No.1 is *ultra vires* the Section 14-A of the Citizenship Act, 1955;
- (f) Issue a writ, order or direction in the nature of mandamus directing the Respondents to conduct a comprehensive investigation by an independent team constituted by this Hon'ble Court to investigate into the role of foreign and private companies and other entities and persons in collection of personal and demographic, and biometric data of Indian residents and Indian citizens, and take such curative and preventive measures to prevent adverse affect on India's national security as may be required;
- (g) Issue a writ, order or direction in the nature of mandamus directing the Respondent No.3 to delink all the biometric and demographic details linked to the bank accounts under the Aadhaar Scheme and under Section 14-A of the Citizenship Act, 1955.

AND/ OR

- (h) Pass such other order (s)/direction (s), as may be necessary to protect the rights of the Petitioner and further the cause being espoused by the Petitioner may be passed. New Delhi

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AND FOR THIS ACT OF KINDNESS PETITIONERS AS IN
DUTY BOUND SHALL EVER PRAY.

DRAWN & FILED BY:

DRAWN ON: 12.12.2014

FILED ON: 29.12.2014

[MS AISHWARYA BHATI]
ADVOCATE FOR THE PETITIONER

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (C) No. OF 2014

IN THE MATTER OF:

Mathew Thomas

...Petitioner

Versus

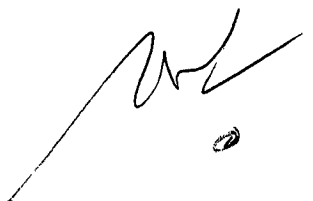
Union of India & Ors.

... Respondents

A F F I D A V I T

I, Mathew Thomas, S/o Late T.P. John, R/o. No.18-A, Adarsh Vista, Basavanagar, Bangalore 560037, Karnataka State, presently at New Delhi, do hereby solemnly affirm and state on oath as under:

1. I am the Petitioner in the above matter and I am well acquainted with the facts and circumstances of the case and I am competent to swear and sign this affidavit on behalf of myself and other petitioner.
2. That the accompanying Writ Petition (PIL) containing paras from 1 to 8, Pages from ___ to ___, List of dates pages from B to ___ and I.A. have been drafted as per our instructions by my Counsel and I have read the contents thereof and I understood the same.
3. That the Annexures enclosed with the accompanying Writ Petition are true typed copies of their originals.
4. That facts & contents stated in the aforementioned Writ Petition Application are true and correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed there from.


DEPONENT

VERIFICATION:

Verified at New Delhi on this 12th day of December 2014
that the contents of my above affidavit are true and correct
to the best of my knowledge and belief and no part of it is
false and nothing material has been concealed therefrom.


DEPONENT

Rules
R-13

24)
25)
26)
R-3
R-46)
R-17 - Penal Consequences
R-5, 7, 10, 11, 14

CITIZENSHIP ACT 1995

Appendix

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14.A Issue of national identity Cards. -

- (1) The Central Government may compulsorily register every citizen of India and issue national identity card to him.
- (2) The Central Government may maintain a National Register of Indian Citizens and for that purpose establish a national Registration Authority.
- (3) On and from the date of commencement of the Citizenship (Amendment) Act, 2003, the Registrar General, India, appointed under sub-section (1) of Section 3 of the Registration of Births and Deaths Act, 1969 (18 of 1969) shall act as the National Registration Authority and he shall function as the Registrar General of Citizen Registration.
- (4) The central Government may appoint such other officers and staff as may be required to assist the Registrar General of Citizen Registration in discharging his functions and responsibilities.
- (5) The procedure to be followed in compulsory registration of the citizens of India shall be such as may be prescribed.

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ANNEXURE P-1

Government of India's Resolution setting up the
Planning Commission

GOVERNMENT OF INDIA

CABINET SECRETARIAT

RESOLUTION

(Planning)

New Delhi, the 15th March, 1950

No.1-P(C)/50 - For some years past, the people of India have been conscious of the importance of planned development as a means of raising the country's standard of living. This consciousness found expression in the appointment in 1938 of the National Planning Committee by the Indian National Congress. The work of the Committee was, however, interrupted by political and other developments in the beginning of the war, although much useful material has since been published. In 1944, the Government of India established a separate Department of Planning and Development and at its instance, the Central as well as the Provincial Governments prepared a number of development schemes to be undertaken after the war. Problems of planning were reviewed towards the end of 1949 by the Advisory Planning Board which was appointed by the

Interim Government of India, an important recommendation of the Board being the appointment of a Planning Commission to devote continuous attention to the whole field of development, so far as the Central Government was concerned with it.

2. During the last three years, the Centre as well as the Provinces have initiated schemes of development, but experience has shown that progress has been hampered by the absence of adequate co-ordination and of sufficiently precise information about the availability of resources. With the integration of the former Indian States with the rest of country and the emergence of new geographical and economic facts, a fresh assessment of the financial and other resources and of the essential conditions of progress has now become necessary. Moreover, inflationary pressures inherited from the war, balance of payments difficulties, the influx into India of several million persons displaced from their homes and occupations, deficiencies in the country's food supply aggravated by partition and a succession of indifferent harvests, and the dislocation of supplies

of certain essential raw materials have placed the economy under a severe strain. The need for comprehensive planning based on a careful appraisal of resources and on an objective analysis of all the relevant economic factors has become imperative. These purposes can best be achieved through an organization free from the burden of the day-to-day administration, but in constant touch with the Government at the highest policy level. Accordingly, as announced by the Honourable Finance Minister in his Budget speech on the 28th February, 1950, the Government of India have decided to set up a Planning Commission.

3. The Constitution of India has guaranteed certain Fundamental Rights to the citizens of India and enunciates certain Directive Principles of State Policy, in particular, that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social economic and political, shall inform all the institutions of the national life and shall direct its policy towards securing, among other things:-

- (a) That the citizens, men and women, equally, have the right to an adequate means of livelihood;
 - (b) That the ownership and control of the material resources of the community are so distributed as best to subserve the common good; and
 - (c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
4. Having regard to these rights and in furtherance of these principles as well as of the declared objective of the Government to promote a rapid rise in the standard of living of the people by efficient exploitation of the resources of the country, increasing production, and offering opportunities to all for employment in the service of the community.

The Planning Commission will:-

1. Make an assessment of the material, capital and human resources of the country, including technical personnel, and investigate the possibilities of augmenting such of these resources as are found to be deficient in relation to the nation's requirements;

- ///
2. Formulate a Plan for the most effective and balanced utilisation of the country's resources;
 3. On a determination of priorities, define the stages in which the Plan should be carried out and propose the allocation of resources for the due completion of each stage;
 4. Indicate the factors which are tending to retard economic development, and determine the conditions which, in view of the current social and political situation, should be established for the successful execution of the Plan:
 5. Determine the nature of the machinery which will be necessary for securing the successful implementation of each stage of the Plan in all its aspects;
 6. Appraise from time to time the progress achieved in the execution of each stage of the Plan and recommend the adjustments of policy and measures that such appraisal may show to be necessary; and
 7. Make such interim or ancillary recommendations as appear to it to be appropriate either for facilitating the discharge of the duties assigned to it, or on a

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consideration of the prevailing economic conditions, current policies, measures and development programmes; or on an examination of such specific problem as may be referred to it for advice by Central or State Governments.

5. The Planning Commission will be composed of the following:

Chairman	: Shri Jawaharlal Nehru
Deputy Chairman	: Shri Gulzarilal Nanda
Members	: Shri V.T. Krishnamachari Shri Chintaman Deshmukh Shri G.L. Mehta Shri R.K. Patil
Secretary	: Shri N.R. Pillai
Deputy Secretary	: Shri Tarlok Singh

6. The Planning Commission will make recommendations to the Cabinet. In framing its recommendations, the Commission will act in close understanding and consultation with the Ministries of the Central Government and the Governments of the States. The responsibility for taking and implementing decisions will rest with the Central and the State Governments. The Government of India feel confident that the States will give the

fullest measure of help to the Commission, so as to ensure the maximum coordination in policy and unity in effort.

7. The work of the Planning Commission will affect decisively the future welfare of the people in every sphere of national life. Its success will depend on the extent to which it enlists the association and cooperation of the people at all levels. The Government of India, therefore, earnestly hope that in carrying out its task the Commission will receive the maximum support and goodwill from all interests and in particular, from industry and labour.
8. The headquarters of the Commission will be at New Delhi.

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Originally published in *The Times*, 7.03.2005

ID cards are the ultimate identity theft
Computer systems always fail – and the national database
will do so big time

The ID card project is still on track - more or less. Jacqui Smith is just the latest in a long line of Home Office ministers to sell us the benefits of ID cards, while casually informing us of the latest rise in costs or slippage in its implementation schedule. Ms Smith is also yet another Home Secretary who subscribes to the "pixie dust" school of technology: computation is a magic substance to be sprinkled over problems, that, hey presto, then vanish. Little wonder that Britain has an appalling record in government IT projects.

The ID project is one of the biggest computer systems envisaged - far more complex than the failing NHS system. And it's another disaster waiting to happen. Still the politicians naively claim there will be no problems: it will be totally secure because of biometrics.

Apparently iris scans, fingerprints, face-recognition software will all work perfectly, be amazingly cheap to implement - and all foolproof. It must be true, as they've been told this by those selling the technology. Baroness Anelay of St Johns, with a group of parliamentarians, was once given a demonstration of a facial recognition system. It failed; indeed the system subsequently crashed, twice. The reason? The baroness was told her face was "too bland".

The only property that all systems have in common is that they fail. And the bigger the system - 60 million entries on a compulsory ID card database - the greater the opportunity of failure. Systems are much like any life form: they degrade over time, they entropy. In the case of databases, they pick up errors and then build data error upon error. The DVLA in Swansea in 2006, for instance, admitted that a third of entries contained at least one error, and that the proportion was getting worse.

We've all had encounters with computer systems that get it wrong. Barclays once refused one of my transactions because they said I was accessing an account owned by a teenage girl named Ian Angell, who

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lived at my address and was a professor at LSE. I still had to take a morning off work to explain that a 14-year-old couldn't own an account that, according to their own records, had been open for 35 years.

And however scrupulous the managers might be, errors leak and take on a life of their own. They are sampled by other databases, known as "farming": errors, even when corrected in the original database, live on elsewhere.

But the ID project will be different, we are told. According to the rhetoric, an ID card, one central point of reference, will be so much more efficient and beneficial than you having to prove your identity daily, by producing driving licences, gas bills and so on. Its proponents fail to see that if any of these documents is erroneous, then we don't use the one with, say, a mistake in the address to prove our identity. With the ID card, we won't have the choice. Even if the card is not compulsory, all financial systems will converge on it, and anyone without a card faces great cost and inconvenience. Just like Oyster cards on the London Underground, you're not forced, but it's so much more expensive and tiresome without one.

However, the ID card itself isn't the real problem: it's the ID register. There, each entry will eventually take on a legal status. In time, all other proofs of identity will refer back to the one entry. If the register is wrong - and remember fallible human hands will at some stage have to handle your personal information - then all other databases will be wrong too. Given the propensity of officialdom to trust the details on their computer screen, rather than the person in front of them, you will have to conform to your entry in the register - or become a non-person.

In effect, your identity won't reside in the living flesh and blood of you, but in the database. You will be separated from your identity; you will no longer own it. All your property and money will de facto belong to the database entry. You only have access to your property with the permission of the database. Paradoxically, you only agreed to register to protect yourself from "identity theft", and instead you find yourself victim of the ultimate identity theft - the total loss of control over your identity.

Errors won't just happen by accident. It's possible to imagine that workers on the ID database will be

corrupted, threatened or blackmailed into creating perfectly legal ID cards for international terrorists and criminals. Then the ID card, far from eliminating problems, will be a one-stop shop for identity fraud; foreign terrorists, illegal immigrants will be waived past all immigration checks.

At a recent Ditchley Park conference on combating organised crime, a persistent warning from the law enforcement authorities was that criminal gangs had placed "sleepers" in financial sector companies, and they were just waiting for the one big hit. The perpetrators of 80 per cent of all computer security lapses are not hackers, but employees. Cryptographic systems don't help if the criminal has been given the keys to the kingdom. Why should the ID centre be immune, especially when there will be nearly 300 government departments logging in. Furthermore, the register will be the No 1 target for every hacker on the planet: the Olympic Games of hacking.

So why is the Government so keen to force ID cards on us? Is it because ministers are control freaks who, having read 1984, only saw it as a wish-list. John Lennon may have been right: "Our society is run by

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insane people for insane objectives. I think we're being run by maniacs." More likely, ministers have been dazzled by the myth of the perfectibility of computers.

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ANNEXURE P-5



LSE

The London School of Economics
& Political Science

The Identity Project

An assessment of the UK Identity Cards Bill
& its implications

Interim Report

London, March 2005

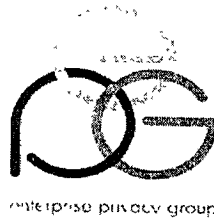
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The Identity Project

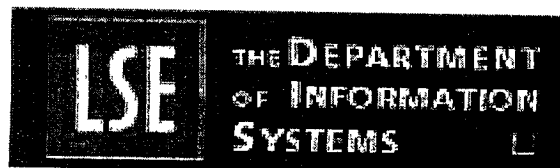
An assessment of the UK Identity Cards Bill
& its implications

Interim Report

Project Management by



Hosted and Published by



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The Financial Times, Covington & Burling, Inland Revenue, The Department for Trade & Industry, IBM, Royal Mail, Kable, Consult Hyperion, The Confederation of British Industry, The Institute of Directors, The British Computer Society, Giesecke & Devrient, The Office of the Information Commissioner, The Information Security Forum, MasterCard, Oracle, British American Tobacco, British Telecom, The Post Office and Prudential.

Participation in the project by an individual or organisation does not imply agreement with the findings of the study in part or full.

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Summary of conclusions

The Report concludes that the establishment of a secure national identity system has the potential to create significant, though limited, benefits for society. However, the proposals currently being considered by Parliament are neither safe nor appropriate. There was an overwhelming view expressed by stakeholders involved in this Report that the proposals are too complex, technically unsafe, overly prescriptive and lack a foundation of public trust and confidence. The current proposals miss key opportunities to establish a secure, trusted and cost-effective identity system and the Report therefore considers alternative models for an identity card scheme that may achieve the goals of the legislation more effectively. The concept of a national identity system is supportable, but the current proposals are not feasible.

Many of the public interest objectives of the Bill would be more effectively achieved by other means. For example, preventing identity theft may be better addressed by giving individuals greater control over the disclosure of their own personal information, while

prevention of terrorism may be more effectively managed through strengthened border patrols and increased presence at borders, or allocating adequate resources for conventional police intelligence work.

The technology envisioned for this scheme is, to a large extent, untested and unreliable. No scheme on this scale has been undertaken anywhere in the world. Smaller and less ambitious systems have encountered substantial technological and operational problems that are likely to be amplified in a large-scale, national system. The use of biometrics gives rise to particular concern because this technology has never been used at such a scale.

Any system that supports critical security functions must be robust and resilient to malicious attacks. Because of its size and complexity, the identity system would require security measures at a scale that will result in substantially higher implementation and operational costs than has been estimated. The proposed use of the system for a variety of purposes, and access to it from a large number of private and public sector organisations will require unprecedented attention to security.

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All identity systems carry consequential dangers as well as potential benefits. Depending on the model used, identity systems may create a range of new and unforeseen problems. These include the failure of systems, unforeseen financial costs, increased security threats and unacceptable imposition on citizens. The success of a national identity system depends on a sensitive, cautious and cooperative approach involving all key stakeholder groups including an independent and rolling risk assessment and a regular review of management practices. We are not confident that these conditions have been satisfied in the development of the Identity Cards Bill. The risk of failure in the current proposals is therefore magnified to the point where the scheme should be regarded as a potential danger to the public interest and to the legal rights of individuals.

//TRUE TYPED COPY//

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Annexure P-4

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

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LITTLE ROCK DIVISION

Dt. 4-12-2007

The United States of America, <i>ex.rel.</i>)	Case No.4-04 CV0000985 W.
Norman Rille and Neal Roberts.)	FILED UNDER SEAL
....Plaintiff)	

Versus)	Complaint in Intervention
)	of the United States
Accenture LLP, an Illinois Limited)	
Liability Partnership, Accenture Ltd.)	False Claims Act,
A Bermuda Corporation and Proquire,)	31 U.S.C. § 3729, et seq. 41
LLC, a Delaware Corporation.)	U.S.C. §§ 51-58 and Commo
...Defendants)	Law Causes of Action.
<hr/>		JURY TRIAL DEMANDED

The United States of America, by its undersigned attorneys, having intervened in this action, brings this civil action against Accenture, LLP, Accenture Ltd and Proquire for treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 51-58, and under common law theories of unjust enrichment breach of contract, and payment under mistake of fact, and alleges as follows:

I. Introduction

1. Over the last 10 years, the United States government, along with its departments, establishments, subdivision, prime contractors and management and operating contractors ("the United States Government" or "Government"), has contracted for the design, department, manufacture and implementation of all kinds and types of information technology systems (IT Systems). These IT Systems include substantial quantities of computer hardware, software and maintenance e. In seeking to acquire and implement these IT Systems, the United State government enters into contracts with consulting service companies, which purport to be skilled in developing, manufacturing, designing and /or converting and integrating Government IT Systems. These consulting companies are known as Systems Integration Consultants ("Systems Integration Consultants" or "SI Consultants"). Such efforts for the development, manufacture and /or conversion and implementation these IT Systems also requires the Government to procure substantial technology hardware, maintenance and technical services,

directly and indirectly, from various technology companies ("Technology Vendors") resulting in the government's further expenditure of million of dollars.

2. The Government contracts with these Technology Vendors directly for purposes of hardware and software, and also indirectly through prime contracts with Systems Integration Consultants. Government spending on information technology services and products alone constitutes many millions of dollars annually since 1998. Technology Vendors send thousands of solicited and unsolicited proposals to the Government yearly, seeking to capture some of these Government dollars. The Systems Integration consultants, who are entrusted and retained to act Government's independent third party objective advisors are supposed to assist the government in answering numerous questions about the appropriate technology solutions, including the vendor cost, quantity, type and purchasing methods that are most advantageous to the Government associates with the require hardware, software, and systems and maintenance.

3. Over the past 10 years, the Government has entered into such SI consultant contracts with Defendant Accenture, LLP and its purchasing subsidiary, proquire, LIC. These contracts and /or applicable federal regulations contain express provisions regarding Federal Acquisition Regulation Prohibitions against Kickback (41 U.S.C. § 51 *et seq.* and 48 C.F.R. 3.502 *et seq.*); Contingency fees (48 C.F.R. 9.6), payments to Influence Certain Federal officials (48 C.F.R. 3.8), Organizational Conflicts of Interest (48 C.F.R. 9.500 *et seq.*) Teaming Agreement (48 C.F.R. 9.6) as well as various other Federal Acquisition Regulations ("FARs"). These prohibitions serve to assure that the Government obtains the products and services that it needs at the best prices through unbiased and untainted advice and truthful representations from Accenture and its purchasing subsidiary, Proquire.
4. During this same period of time, Defendants Accenture, LLP and Proquire, LLC established relationships, known as "teams." "strategic alliances," "alliance teams," "alliance partnerships" or alliances" (collectively hereinafter referred as

"Alliance(s)", with other SI Consultants hardware vendors and software vendors).

5. The United State alleges that since October 1998 and continuing up to the present (the "Relevant Time Period"), defendants have exploited the trust the Government has reposed in them to act with honesty and candor; to provide accurate, complete and current cost and /or pricing data; to act without conflicts of interest; and to serve as independence third party objective advisors. The Defendants' focus on profits and Alliance Partner revenue, rather than the interest of their Government clients, has destroyed their independence and eliminated fair competition in the Government procurement process as a result, millions of dollars of Kickbacks were sought, received, offered and paid between and among the Defendants with their Alliance in violation of the False Claims Act and other federal statutes and regulations. In furtherance of this scheme, Defendants expressly or impliedly represented or certified to the Government that they complied with various Anti-Kickback Statutes, FARs. Truth in Negotiation Act (TINA) (10 U.S.C. §2036a and 41

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U.S.C. §254b), and organizational conflict of interest laws, when, in fact, they had not and do not, comply with such laws and regulations. Again, this resulted in the making of false averments and false claims in violation of the False Claims Act to the Government in connection with Defendants' contracts and/ or subcontracts.

II. Jurisdiction and Venue

6. This is an action by the United States against defendant Accenture, LLP, Accenture, Ltd. And Proquire, LLC pursuant to the False Claims Act, 31 U.S.C. §3729 *et seq.* (F.C.A.), and the Anti-Kickback Act, 41 U.S.C. §§51-58 (AKA), and at common law.
7. The Court has jurisdiction over this matter pursuant to 31 U.S.C. §§3729-3732, and 28 U.S.C. §§1331, 1345 and 1355, and its general common law and equitable jurisdiction
8. Venue is proper in this District pursuant to 28 U.S.C. §§1391 and 1395, and 31 U.S.C. §3732.

III. Parties

9. The plaintiff is the United States of America.
10. Defendant Accenture Ltd. is a Bermuda corporation doing business in the State of Arkansas, and more

particularly within the geographical limits of the United States District Court, Eastern District of Arkansas. During the Relevant Time Period, Accenture, Ltd., its predecessors, and successors (directly or through subsidiaries, affiliates or assigns), have established Alliances and / or Affiliate relationship for the purpose of consummating sales to the United States Government in various capacities, including but not limited to, as SI Consultants for the United States Government.

11. Accenture, LLP, is an Illinois limited liability partnership headquartered in Chicago, Illinois, wholly owned Accenture, Ltd., and doing business in the State of Arkansas, and more particularly within the geographical limits of the United States District Court, Eastern District of Arkansas. During the Relevant Time Period, Accenture, Ltd., its predecessors, and successors (directly or through subsidiaries, affiliates or assigns), have established Alliances for the purpose of consummating sales to the United States Government in various capacities, including but not limited to, as SI Consultants for the United States Government.

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12. Proquire, LLC ("Proquire"), is a Delaware Limited liability corporation, wholly owned by Accenture LLP' and Accenture Ltd., doing business in the State of Arkansas, and more particularly within the geographical limits of the United States District Court, Eastern District of Arkansas. During the Relevant Time Period, Proquire was acting on behalf of Accenture, LLP to enter into Alliance Agreements with Technology Vendors and resell technology products and services to the United States Government. Accenture LLP used Proquire to retain the Kickbacks, and/ or used Proquire to funnel the Kickbacks's back to Accenture, LLP. Defendants Accenture Ltd., Accenture LLP, and Proquire, and their predecessors and successors, subsidiaries, affiliates or assigns, shall be referred to hereafter collectively as "Accenture".
13. The False Claims Act, 31 U.S.C. § 3730(b) provides that private persons may file an action pursuant to 31 U.S.C. § 3729 *et seq.* for the private person and the United States against a person violating the Act. The private person initiating such an action is called a "relator".

14. Relator Norman Rille is a citizen and resident of the State of California. Mr. Rille filed this action pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) on or about September 17, 2004. On December 13, 2006, the United States intervened in Mr. Rille's action.

15. Relator Neal A. Roberts is a citizen and resident of the State of California. Mr. Roberts filed this action pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. & 3730(b) on or about September 17, 2004. On December 13, 2006, the United States intervened in Mr. Roberts' action.

16. Relators have previously made a voluntary disclosure of the wrong doing referred to herein to the United States Government pursuant to 31 U.S.C. & 3730(e)(4)(B). Relators' Complaint filed on or about September 17, 2004, made detailed allegations regarding the Realtors' direct and independent knowledge of Defendants' wrong doing alleged herein, which comprises their original source allegations.

IV. Facts Alleged

Accenture's Alliances

17. The United States alleges that during the Relevant Time Period, Accenture established Alliances, in whole or

in part, for the purpose of consummating sales of IT Systems, services and products to the United States Government. Some of the major Technology Vendors whose products were sold to the United States Government include, without limitation: Acxiom Corporation ("Acxiom"), Avanade, Inc. ("Avanade"), Cisco Systems, Inc. ("Cisco"), Commerce One, Compaq Computer Corporation ("Compaq"), Dell Inc. ("Dell"), EMC Corporation ("EMC"), Hewlett-Packard Company ("HP"), International Business Machines, Inc. ("IBM"), Informatica Corporation ("Informatica"), J.D. Edwards & Company ("J.D. Edwards"), Manugistics Group, Inc. ("Manugistics"), Microsoft Corporation ("Microsoft"), Northrop Grumman and/or Northrop Grumman IT, Computer Associates, CGI-AMS, Tech Data Corporation, CDW, Webmethod, Vastera, Ingram Micro, ACSIS, World Wide Technology Inc, Oracle Corporation ("Oracle"), People Soft, Inc. ("People Soft"), SAP Public Services ("SAP"), See Beyond, Siebel Systems, Inc. ("Siebel"), Sun Microsystems, Inc. ("Sun"), Unisys Corporation ("Unisys"), answer Friend, Asera, Inc. ("Asera"), BEA systems, Inc. ("BEA Systems"), Blue Martini Software, Inc. ("Blue Martini"), Broadvision, Inc. ("Broadvision"), Cognos, Incorporated ("Cognos"), Jamcracker, Inc. ("Jamcracker"), Kalido Ltd. ("Kalido"), Kana Software,

Inc. ("Kana"), Plumtree Software, Inc. ("Plumtree"), SAS, Seisint, Inc. ("Seisint"), Teradata, Top Tier Software, Inc. ("Top Tier") and Vignette Corporation ("Vignette").

18. For more specific examples, Accenture maintained the following written Alliance Agreements during the Relevant Time Period :

- "Marketing Alliance Agreement" with Authoria dated 08.29.01;
- "Business Development Partner Agreement" with HP dated 06.03;
- "Systems Integrator Agreement" with HP dated 03.28.04;
- "Master Reseller Agreement" with NCR dated 04.16.01;
- "General Terms and iForce Business Agreement" with Sun dated 06.20.03;
- "Joint Marketing and Alliance Agreement" with Oracle dated 07/01.05;
- "Master Alliance Agreement" with See Beyond dated 01.05.00;

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- "Warrant Purchase Agreement" with Software Technologies Corporation (i.e. See Beyond) dated 11.16.99;
 - "Integrator Reseller Agreement" with EMC (i.e. Accenture) and Proquire dated 12.01.97;
 - "Teaming Agreement" with EMC dated 09.18.01;
 - "Alliance Agreement" with NCR dated 04.13.01;
 - "Joint Marketing and Alliance Agreement" with Acxiom dated 11.17.03;
 - Master Infrastructure Hosting Services Agreement" with Acxiom dated 07.01.04;
 - "Alliance and Joint Marketing Agreement" with SAP;
 - "Teaming Agreement" with SAP dated 02.10.06;
 - "Business Partner Agreement" with IBM dated 07.01;
 - "Worldwide IBM Global Software Initiative Agreement" with IBM dated 01.01.01;

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- "Master Alliance Agreement" with Callidus dated 08.11.04;
 - "Teaming Agreement" with ClickSoftware dated 09.01.05;
 - "Preferred Relationship Agreement" with Convergsys dated 12.10.04;
 - "Marketing Agreement" with Everypath dated 08.28.00;
 - "Consulting Services and Marketing Agreement" with Epylon.com Corp, dated 06.16.00;
 - "Consulting SI Agreement" with FileNet dated 03.01.94;
 - "Alliance Agreement" with Genesys Telecomm dated 06.13.05.

ACCENTURE'S GOVERNMENT CONTRACTS

19. During the relevant time period, Accenture also entered into contracts with the United States Government, the terms of which, and/or by virtue of law or regulation required them to comply with the False Claims Act, Anti-Kickback Act, TINA, organizational conflict of interest laws and other federal acquisition

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regulations. Those laws and regulations provide as follows :

a. The False Claims Act. The False Claims Act provides that:

(a) Any person who -

(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or cause to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;

(3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government; [or]

* * *

is liable to the United States Government for a civil penalty of not less than [\$5,500] and not more than [\$11,000], plus 3 times the amount of damages which the Government sustains because of the act of that person..

(b) Knowing and knowingly defined. For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information -

(1) has actual knowledge of the information;
(2) acts in deliberate ignorance of the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

b. The Anti-Kickback Act. The Anti-Kickback Act of 1986, 41 U.S.C. & 52(2)(A), imposes liability on any person who makes a payment to any other person involved in the federal procurement process for the purpose of obtaining favourable treatment. The AKA defines the term "kickback" as follows :

(2) The term "kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which, provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or

rewarding favourable treatment in connection with a prime contractor in connection with a subcontract relating to a prime contract.

The AKA, 41 U.S.C. & 53, further provides that "[i]t is prohibited for any person -

(1) to provide, attempt to provide, or offer to provide any kickback;

(2) to solicit, accept, or attempt to accept any kickback; or

(3) to include, directly or indirectly, the amount of any kickback prohibited by clause (1) or (2) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.

c. Truth in Negotiations Act. TINA, 10 U.S.C. & 2036a and 41 U.S.C. & 254b, provides, among other things, that:

(2) A person required, as an offer or, contractor, or subcontractor, to submit cost or pricing data under paragraph (1)...shall be required to certify that, to the best of the

person's knowledge and belief, the cost or pricing data submitted are accurate, complete and current.

- d. Organizational Conflicts of Interest, 48 C.F.R. 9.505, provides, among other things, that :

The general rules in 9.505-1 through 9.505-4 prescribe limitations on contracting as the means of avoiding neutralizing, or mitigating organizational conflicts of interest that might otherwise exist in the stated situations....Each individual contracting situation should be examined on the basis of its particular facts and the nature of the proposed contract. The exercise of common sense, good judgment, and sound discretion is required in both the decision on whether a significant potential conflict exists and, if it does, the development of an appropriate means for resolving it. The two underlying principles are -

- (a) Preventing the existence of conflicting roles that might bias a contractor's judgment; and

(b) Preventing unfair competitive advantage.

In addition to the other situations described in this subpart, an unfair competitive advantage exists where a contractor competing for award of any Federal contract possesses -

(1) Proprietary information that was obtained from a Government official without proper authorization; or

(2) Source selection information (as defined in 2.101) that is relevant to the contract but is not available to all competitors, and such information would assist that contractor in obtaining the contract.

Accenture's Alliance Benefits

SI Compensation

20. During the Relevant Time Period, in violation of its contracts with the United States Government, Accenture was paid cash and other things of value by its Alliance Partners in return for Accenture's favorable treatment and influence in the Government-procurement process. These payments solicited by, and provided to, Accenture were a violation of federal procurement law and related regulations and contract clauses in Accenture's Government contracts, including the AKA.

21. Pursuant to the terms of Accenture's Alliance Agreements, Accenture was entitled to these payments of cash and other compensation in return for influencing the award of a direct prime contract by the Government to Accenture's Alliance Partners. Accenture referred internally to this compensation as Systems Integrator Compensation or "SI Compensation." These payments of SI Compensation sought and received by Accenture were Kickbacks, and were in violation of federal procurement and related regulations and contract clauses in Accenture's Government contracts.

22. For example, Accenture received the following SI Compensation payments from IBM as a result of Accenture's favourable treatment and influence for IBM on Government Contracts:

2001	\$68,524	Department of Education Accenture Number DED-001-91.
2003	\$3,480	FDIC Accenture number FED-262-90.
2004	\$101,571	Department of Army Accenture No.AMC-011-90.
2005	\$452,843	Air Force AAFES Contract.
2006	\$109,000	Air Force AAFES Contract.

23. Accenture received the following SI Compensation payments from NCR as a result of Accenture's favourable treatment and influence on Government Contracts:

2004	\$200,000	Defense Commissary Accenture No.DCA 200- 03-A-5003.
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24. Accenture received the following SI Compensation payments from HP as a result of Accenture's favourable treatment and influence on government Contracts:

2002	\$133,460	Defense Logistics Agency Accenture No.DLA-005-90.
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2003	\$9,244	Department of State Accenture No.UNZ-261-91.
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	\$45,855	Internal Revenue Service Accenture No.IRS-400-94.
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	\$2,166	U.S. Postal Service USP-025-90.
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2004	\$85,894	Defense Intelligence Agency Accenture No.DOD-017-94.
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	\$243,956	Defense Logistics Agency Accenture No.DLA-005-90.
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	\$6,641	Department of Army Accenture No.AMC-011-90.
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2005	\$220,223	Defense Logistics Agency Accenture
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No.DLA-005-91:

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25. Accenture received the following SI Compensation payments from Informatica as a result of Accenture's favourable treatment and influence on Government Contracts:

2004 \$7,506 Defense Logistics Agency Accenture
No.DLA-005-91:

26. Accenture received the following SI Compensation payments from People soft as a result of Accenture's favourable treatment and influence on Government Contracts:

2001 \$24,549 Army Cecorn Accenture No.AMC-011-
90

\$35,797 Federal Election Commission FEC-
019-90.

\$164,555 HUD Accenture No.UNZ-727-90.

\$220,631 Smithsonian Institute SMI-259-90

\$15,068 Federal Energy Regulatory
Commission, Accenture
No.ERC00290.

\$58,092 Supreme Court of the United States
SPC-019-90.

2002 \$26,620 Department of State Accenture

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No.UNZ-261-91.

\$67,818 Department of Interior DEP-009-90.
2003 \$156,617 FDIC Accenture No.FED-262-90.
\$357,761 National Security Agency Accenture
No.UNI-219-90.
\$35,062 TSA Accenture No.FAA-001-93.
2004 \$9,575 DLA Accenture No.DLA-005-91.

27. Accenture received the following SI Compensation payments from Mercury Interactive as a result of Accenture's favourable treatment and influence on Government Contracts:

2004 \$14,867 Defense Intelligence Agency Accenture
No.DOD-017-94.
\$48,284 Army Accenture No.AMC-0111-90

28. Accenture received the following SI Compensation payments from sun as a result of Accenture's favourable treatment and influence on Government Contracts:

2001 \$27,164 USPS Accenture No.USP-025-93.
2002 \$48,495 Department of Treasury Accenture
No.IRS-004-90.

29. Accenture received the following SI Compensation payments from EMC as a result of Accenture's favourable treatment and influence on Government Contracts:

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2002 \$119,364 Department of Treasury Accenture
No.IRS-004-90.

2005 \$30,000 Air Force AAFES Contract.

2004 \$86,255 DLA Accenture No.DLA-005-91.

30. Accenture received the following SI Compensation payments from Quest as a result of Accenture's favourable treatment and influence on Government Contracts:

2004 \$14,748 Army Accenture No.AMC-0110-90.

31. Accenture did not disclose the SI Compensation terms of its Alliance Agreements and the payment of SI Compensation to its Government customers.

32. Between 1998 and 2006, Accenture earned more than \$4 million in cash SI Compensation on Government Contracts.

33. Accenture did not credit any income earned from SI Compensation to its Government contracts.

EQUITY COMPENSATION

34. In addition to cash payments like those referenced above, another example of Accenture's SI Compensation involves Accenture receiving equity value in its Alliance Partners tied to referrals, recommendations and/or use of such Alliance Partners on Government contracts. For

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example, in November 1999, See Beyond "incentivized" strategic Alliance Partner Andersen Consulting LLP (Accenture's predecessor in interest) "by issuing warrants" to purchase shares of SeeBeyond common stock, with the "vesting of such warrants conditioned upon the achievement of agreed upon milestones relating to the generation of qualified customer introductions or revenues for" SeeBeyond. By March 2001, SeeBeyond paid such "incentive" stock warrants to Accenture in return for influence and favorable treatment on contracts with the Defense Logistics Agency and the Department of Energy.

35. Accenture knew that its receipt of SI Compensation was in return for Accenture's influence and favorable treatment on Government contracts.

36. The Government contracts under which Accenture was acting when it exerted its influence, and provided favorable treatment to its Alliance Partners, were all governed by the A.K.A. Similarly, the Government contracts which Accenture's Alliance Partners would receive as a result of Accenture's influence and favorable treatment were all governed by the A.K.A.

37. The A.K.A. prohibits the SI Compensation solicited by and provided to Accenture by its Alliance Partners and further requires immediate disclosure by Accenture of any reasonable knowledge of an attempt to make such payment.

Rebates and Marketing Fees

38. In addition to the receipt of SI Compensation, Accenture utilized its Alliance Agreement to earn rebates and marketing assistance fees. Accenture earned these fees, in part, by subcontracting with its alliance Partners and reselling its Alliance Partners' hardware, software and services to the Government. In return for these sales, Accenture's Alliance Partners would pay Accenture a percentage of the sale as a rebate or marketing assistance fee (MAF).

39. Accenture had rebate/MAF provisions in its Alliance Agreements with HP and Sun.

40. Pursuant to many FAR provisions, such credits and rebates provided to Accenture by its Alliance Partners are the property of the Government, and must be disclosed to and provided to the Government, 48 C.F.R. § 31.201-5, §52.216-7 (cost type contracts), §52-216-16 (fixed price-incentive contracts), §52-232-7 (the materials portion of time and materials contracts). Further, Accenture is

liable for the amount of the rebate even if it does not collect it due to its own fault or neglect.

41. Accenture personnel knew about Accenture's obligations with respect to credits, discounts and rebates. Nevertheless, Accenture chose to knowingly violated those provisions and failed to disclose the rebates that it earned on Government contracts, and failed to turn them over to its Government clients.

42. As an example of Accenture's receipt of rebates, Accenture earned a \$32,335 rebate from HP in July 2002 in connection with work performed for the TSA on Accenture contract task DTA59-02-F-10015. Accenture personnel discussed at that time the fact that Accenture needed to disclose and credit the rebate to the TSA. Nevertheless, Accenture contracting personnel expressed concern about such a disclosure because "it may open questions with regards to previous engagements and the hardware purchases done in the past." As a result, Accenture did not disclose and credit these rebates to the Government.

43. Accenture also earned Sun Fund MAF from Sun. In part because of its purchase of Sun products and resale to the Government, Accenture earned more than

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\$2,000,000 in sun MAF between 2003 and 2005. Accenture did not credit any MAF to its Government clients.

Resale Revenue

44. In addition to the receipt of SI Compensation and rebates/MAF, Accenture improperly used its Alliance Agreements to obtain other prohibited payments and benefits from its Alliance Partners.

45. For example, Accenture negotiated with its Alliance Partners for steep, undisclosed discounts on hardware, software services and maintenance and then recommended and sold these products to its Government customers at higher prices and thereby knowingly and improperly generated significant "resale revenue" or profit.

46. Accenture earned resale revenue pursuant to discounts obtained from many of the same Alliance Agreements from which it received SI Compensation.

47. Accenture had a policy that provided for it to "shape" transactions with the Government to provide for resale revenue where SI Compensation was deemed unavailable.

48. Accenture's Alliance Agreement personnel internally SI Compensation its resale revenue in the same manner as it tracked SI Compensation.

49. Accenture personnel were instructed to constantly look for ways to structure Government contract transactions so as to provide for greater opportunities to maximize resale revenue often at the direct expense of its Government clients. None of these improper practices were disclosed to Accenture's Government clients.

50. Accenture did not disclose the terms of its Alliance Agreements and the provisions for resale revenue to its Government clients.

51. During the period 2000 through 2006, Accenture utilized its Alliance Agreements with Technology Vendors including: SAP, Manugistics, GTSI, HP, Mercury Interactive, Northrop Grumman, Oracle, SeeBeyond, Computer Associates, CGI-AMS, Tech Data Corporation, E-Plus, and CDW to generate approximately \$16,865,314 in unallowable resale revenue under US Department of Defense, Defense Logistics Agency Contract number GS-35-F-4692G, Delivery Orders SP0103-00-F-A032; SP0103-00-F-A095; and SP0103-00-F-A027.

52. During the period 2003 through 2004, Accenture utilized its Alliance Agreements with Technology Vendors including Manugistics, Webmethod, Vastera, and Yantra to generate approximately \$1,221,525 in unallowable resale revenue under US Army Military Traffic Management Command Contract number DAMTO-03-C-0033.

53. During the period 2005 through 2006, Accenture utilized its Alliance Agreements with Technology Vendors including; Sun, IBM, Ingram Micro, Vignette, ACSIS, Dell Marketing Corporation, World Wide Technology, SAS, Mercury Interactive, Tech Data Corporation, and CDW to generate approximately \$676,964 in unallowable resale revenue under US Department of Homeland Security Contract number HSSCHQ-04-D-0096.

54. During the period 2001 through 2006, Accenture utilized its Alliance Agreements with Technology Vendors including NCR to generate approximately \$448,653 in unallowable resale revenue under US Air Force Contract number FA8770-01-C-0020.

55. During the period 2001 through 2006, Accenture utilized its Alliance Agreements with Technology Vendors including, Sun, HP, Oracle, PeopleSoft, Computer Associates, Mercury Interactive, Informatica, Dell, Ingram Micro, Tech Data Corporation and Hyperion to generate approximately \$336,489 in unallowable resale revenue under a US Internal Revenue Service Contract.

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56. During the period 2003 through 2006, Accenture utilized its Alliance Agreements with Technology Vendors including: SAP, Siebel Systems, HP, Mercury Interactive, GTSI, Dell, EMC, SBC Datacom, Micro Warehouse, Ingram Micro and CDW to generate approximately \$336,489 in unallowable resale revenue under a US Internal Revenue Service Contract.

57. During the period 2001 through 2003, Accenture utilized its Alliance Agreements with Technology Vendors including: HP, Dell, Ingram Micro and Intellithought to generate approximately \$336,489 in unallowable resale revenue under US Department of Health and Human Services Contract number GS-35F-4692-G, Task Order 03L81-2043-01-D.

58. During the year 2006, Accenture utilized its Alliance Agreements with Technology Vendors including: Government Acquisition, Inc, Intevoice and Presidio Corporation to generate approximately \$212,616 in unallowable resale revenue under a US internal Revenue Service Contract.

59. During the period 2003 through 2006, Accenture utilized its Alliance Agreements with Technology vendors including: Mercury, Verify and Togethersoft to generate

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approximately \$23,166 in unallowable resale revenue under US Internal Revenue Service Contract number TIRNO-00-D-00009.

60. In the period 2003 through 2006, Accenture utilized its Alliance Agreements with Technology Vendors including : Oracle, Microstrategy, Autonomy and Jamcracker to earn more than \$2.5 million of undisclosed and unallowable resale revenue on a contract with the Department of Education. Accenture expressly and falsely promised the Department of Education contracting officer that it would pass on any margin earned from rebates or discounts extended by its subcontractor vendor.

61. Between 1998 and 2006, Accenture created more than \$26 million in resale revenue on its Government contracts as a result of its Alliance Agreements.

62. Accenture's alliance activities and receipt of SI Compensation, rebates/MAF and resale revenue violates the False Claims Act in multiple ways.

63. The cash benefits, discounts, equity warrants and other things of value that Alliance Partners provided to Accenture pursuant to the Alliance Agreements are

kickbacks in violation of the Anti-Kickback Act, 41 U.S.C. §53,48 C.F.R. 3.502-2 and 48 C.F.R.52.203.

64. On numerous occasions, Accenture had reasonable grounds to believe that violations of the Anti-Kickback Act may have occurred with respect to its Alliance Benefits, and yet failed to promptly report the possible violations in writing to the Inspector General of the applicable agency or other authorized person. These failures constituted further violations of the Anti-Kickback Act, 41 U.S.C. § 57(c)(1).

65. Accenture violated the False Claims Act by expressly or impliedly making false statements, records or certifications in response to the Government requests for proposal that it was in compliance and would continue to comply with the Anti-Kickback Act. Defendants committed additional violations of the False Claims Act by presenting or causing to be presented to the Government their claims to obtain payment in which they expressly or impliedly made false statements, records or certifications that they had complied with the Anti-Kickback Act.

66. Accenture's Alliance activities violate the False Claims Act because Accenture failed to disclose the terms of its discounts, rebates, influence fees, credits and other things of value to its Government clients and then further failed to pass these amounts on to its Government clients and thereby fulfill its obligation to obtain product and services at the most advantageous price to the Government. Accenture further knowingly submitted claims to the United States Government that did not deduct the amounts of SI Compensation, Rebates/MAF and Resale revenue and thereby inflated its claims by these amounts in violation of the FCA.

67. Accenture also violated the False Claims Act by failing to fully disclose organizational conflicts of interest. Accenture's alliances constitute organizational conflicts of interest that should have been fully disclosed to the Government pursuant to 48 C.F.R. 9,500, et seq., as well as the terms and conditions of Accenture's contracts. Accenture violated the False Claims Act by expressly or impliedly making false statements, records or certifications in response to the Government request for proposals that it was in compliance and would continue to comply with the are mentioned organizational conflict of interest regulations. Accenture likewise violated the False Claims Act by presenting or causing to be presented to the Government its claims to obtain payment in which it expressly or impliedly made false statements, records or certifications that it had no organizational conflicts of interest and/or that it had already fully disclosed all such conflicts of interest.

68. It is alleged that the foregoing practices have resulted in the United States Government, either directly or indirectly through its agencies or intermediaries, entering into contracts/subcontracts under false representations and violations of law as alleged herein. These improper practices have limited or eliminated fair competition, destroyed Accenture's independence, led to the United States Government purchasing the wrong products/services and/or not receiving the most advantageous price for those products/services. These improper practices are all in violation of the FCA.

69. It is further alleged that the United States Government, either directly or indirectly through its agencies or intermediaries, would not have contracted with Accenture due to conflict or other reasons and/or would have sought significant cost and/or price concessions had it known that the contracts/subcontracts, products and/or services for which the contracts were proposed were subject to a scheme to violate the Anti-Kickback provisions set forth at 41 U.S.C. § 51 et seq., and pertinent FARs including, but not limited to, 48 C.F.R. 3.502, et seq. and 48 C.F.R. 52.203; 48 C.F.R. § 31.201-5, § 52.216-7 (cost type contracts), § 52-216-16 (fixed price-incentive contracts), § 52-232-7 (the materials portion of time and materials contracts); the provisions of TINA set forth at 10 U.S.C. § 2306a., 41 U.S.C. 245b, and 48 C.F.R. 15.400, et seq; and organizational conflict of interest laws, including, but not limited to 48 C.F.R. 9.500 et seq.

70. It is further alleged that the United States Government, either directly or indirectly through its agencies or intermediaries, would not have honoured Accenture's claims for payment, had it known that the contracts/ subcontracts, products and/ or services for which the claims were made, were provided in a manner that violates the Anti-Kickback provisions set forth at 41 U.S.C. § 51 et seq. and pertinent FARs including, but not limited to, 48 C.F.R. 3.502, et. Seq. and 48 C.F.R. 52.203, 48 C.F.R. § 31.201 - § 52.216-7 (cost type contracts), § 52-216-16 (fixed price incentive contracts), § 52-232-7 (the materials portion of time and materials contracts), the provision of TINA set forth at 10 U.S.C. § 2306a, 41 U.S.C. 245b, and 48 C.F.R. 15.400 et. seq.; and organizational conflict of interest laws, including, but not limited to 48 C.F.R. 9.500 et seq.

CLAIMS

COUNT I

(VIOLATIONS OF THE FALSE CLAIMS ACT)

71. Plaintiff repeats and re-alleges the allegations contained in Paragraph 1 through 70 above, as if fully set forth herein.

72. Accordingly, Defendants have violated the provisions of the False Claims Act, 31 U.S.C. § 3729(a) by:

- a. Knowingly presenting or causing to be presented to the United States Government, directly or indirectly, false or fraudulent claims to be paid or approved, directly or indirectly, by the United States Government (31 U.S.C. § 3729 (a) (1) ; and
- b. Knowingly making, using or causing to be made or used, or presenting false records or statements and/or false certifications to obtain contracts subcontracts and/ or the payment of false or fraudulent claims to be paid or approved by the United States Government (31 U.S.C. § 3729 (a) (2);

73. The United States Government upon presentation of such claims for payments, whether directly or indirectly, remitted payment despite the false nature of such claims.

74. Pursuant to 31 U.S.C. § 3729 (a), Defendants are liable to the United States Government for a civil penalty of not less than \$ 5, 500, and not more than \$ 11,000 for each violation of the FCA committed by Defendants.

75. The United States Government has further sustained damages, and will yet sustain damages up to the date of trial in an amount yet to be determined. Pursuant to 31 U.S.C. § 3729 (a), Defendants are liable for three times the amount of all such damages sustained by the United States Government.

COUNT - II

(VIOLATION OF THE ANTI-KICKBACK ACT)

76. Paragraph 1 through 75 of this Complaint are hereby re-alleged and incorporated as though set forth in full herein.

77. this is a claim against Defendants under the Anti-Kickback Act.

78. The arrangements and activities described above in connection with the Defendants' Alliance benefits were knowingly carried out by Defendants "for the purpose of improperly obtaining or rewarding favourable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract, "41 U.S.C. § 52(2), and thus constituted illegal kickbacks in violation of 41 U.S.C. § 53, as well as in violation of Defendants' contracts with the Government.

79. By reason of the conduct alleged herein, Defendants knowingly engaged in conduct prohibited by 41 U.S.C. § 53 WITH RESPECT of kickbacks received from Alliance Partners by Defendants on Government contracts and subcontracts.
80. By reason of the conduct alleged herein, Defendants knowingly caused, directly or indirectly, the kickbacks to be included in the charge to the United States Government, in violation of 41 U.S.C. §53 (3).
81. Pursuant to the Section 55 (a) (1) (A), the United States is entitled to recover from Defendants double the amount of the kickbacks plus \$ 10,000 kickback.
82. In the alternative, pursuant to Section 55 (a) (2), the United States is entitled to recover the amount of the kickbacks from Defendants.

COUNT - III

83. Paragraph 1-82 of this complaint are re-alleged and incorporated as though set forth in full herein.
84. By reason of the actions described above, Defendants materially breached the United States Government's

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contracts by not providing the services for which it was contracted Defendants billed in violation of the terms of those contracts, including specifically, the violation of the AKA.

85. By reason of these breaches, the United States has been damaged.

COUNT - IV

86. The United States repeats and re-alleges each allegations as set forth above in paragraph 1 through 85.

87. Defendants caused the United States Government to make payment of Defendants' for products and services based upon the United States Government's mistaken belief that the requirements of its contracts and subcontracts pursuant to which Defendants were being paid had been met and that the Defendants contracts were without violations of the AKA. In such circumstances, the payments by the United States Government to Defendants was by mistake and not authorized.

88. As a result of those mistaken payments, the United States has sustained damages.

COUNT - V

(UNJUST ENRICHMENT)

89. Paragraph 1-88 are re-alleged and incorporated as tough set forth herein.

90. By reason of the United States Government's payments under the contracts and subcontracts, Defendants received money to which it was not entitled and has thereby been unjustly enriched in an undetermined amount.

PRAYER

WHEREFORE, Plaintiff, United States prays for judgment against all Defendants as follows:

- A. On Count I, pursuant to the FCA, judgment against Defendants for triple damages sustained by the United States, plus civil penalties as are allowable by law, and all other proper relief.

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B. On Count II, pursuant to the AKA, Judgement against Defendants for double the amount of the prohibited kickbacks, plus civil penalties as are allowable by law in the amount of \$10,000 per violation, pre-judgment and post-judgment interest, and costs, or in the alternative, pursuant to 41 U.S.C. § 55(a)(2), the amount of the prohibited kickbacks, plus pre-judgment and post-judgment interest, and costs.

C. On Counts III-V; judgment against Defendants for the damages sustained, all profits earned by virtue of the wrongdoing, plus pre-judgment and post-judgment interest, and costs.

D. such other and further relief as is just and proper.

THE UNITED STATES DEMANDS A TRIAL BY JURY
AS TO ALL ISSUES SO TRIABLE.

UNITED STATES OF AMERICA

By its attorneys,

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Assistant Attorney General

TIM GRIFFIN

United States Attorney

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Dated: April 12, 2007.

/True typed copy/

(TO BE PUBLISHED IN PART-I,
SECTION - 2 THE GAZETTE OF INDIA)

GOVERNMENT OF INDIA
PLANNING COMMISSION

Yojana Bhawan, Sansad Marg,
New Delhi, 28th January, 2009

NOTIFICATION

No. A-43011/02/2009-Admn. I : In pursuance of Empowered Group of Ministers' fourth meeting, dated 4th November 2008, the Unique Identification Authority of India (UIDAI) is hereby constituted and notified as an attached office under aegis of planning commission with following terms of reference and initial core staff composition :-

COMPOSITION :

2. UIDAI shall be set up with an initial core team of 115 official given below :

Post	Level	No. of Posts
UID Authority Of India		
Director General & Mission Director	Additional Secretary Govt. of India	1
Deputy Director General (DDG)	Joint Secratry Govt. of India	1
Assistant Director General (ADG)	Director, Govt. of India	1
Support Staff		
PS	PS	3
Peon	Peon	2
Driver	Driver	2

	Total Manpower	10
State/UT Unite of UIDAI		
State/UT UID Commissioner	Joint Secretary, Govt. of India	35
Support Staff		
PS	PS	35
Peon	Peon	35
	Total Manpower	105
	Grand Total	116

Role and Responsibilities of UIDAI

3. UIDAI shall have the responsibility to lay down plan policies to implement UID Scheme, Shall own and operate UID database and be responsible for its updation and maintenance on an ongoing basis.
4. Implementation of UID scheme will entail, inter alia, following responsibilities being undertaken by UIDAI.
 - Generate and assign UID to residents
 - Define mechanisms and processes for interlinking UID with partner databases on a continuous basis.
 - Frame policies and administrative procedures related to updation mechanism and maintenance of UID database on an ongoing basis.

- Co-ordinate/liaise with implementation partners and user agencies as also define conflict resolution mechanism.
- Define usage and applicability of UID for delivery of Various services.
- Operate and manage all stages of UID lifecycle.
- Adopt phased approach for implementation of UID specially with reference to approved timelines.
- Take necessary steps to ensure collation of NPR with UID (as per approved strategy).
- Ensure ways for leveraging field level institutions appropriately such as PRIs in establishing linkages across partner agencies as well as its validation while cross linkin with other designated agencies.
- Evolve strategy for awareness and communication of UID and its usage.
- Identify new partner/user agencies.
- Issue necessary instructions to agencies that undertake creation of databases, to ensure standardization of data elements that are collected and digitized and enable collation

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and correlation with UID and its partner databases.

- Frame policies and administrative procedures related to hiring/retention/mobilization of resources, outsourcing of various tasks and budgeting and planning for UIDAI and all state units under UIDAI.
5. Planning commission shall be the nodal agency for UIDAI for providing logistics, planning and budgetary support, Planning and budgetary support. Planning commission would provide initial office and IT infrastructure at central level.
 6. Government housing will be provided to offices of UIDAI appointed on deputation from general pool of Department of Urban Development.

Sd/-

28.01.2009

(Dr. Subas Panj)

Secretary to the Government of India

The General Manager
Govt. of India Press
Faridabad

Copy to :

1. Secretary to the President, Rashtrapati Bhavan, New Delhi.
2. Secretary to the Vice-president, Maulana Azad Road, New Delhi.

3. Cabinet Secretary, Rashtrepati Bhavan, New Delhi.
4. Principal Secratry to the Prime Minister, South Block New Delhi.
5. Private Secretary to the Deputy Chirman, Planning Commission.
6. All Ministers/Departments of Govt. of India.
7. Chief Secretaries of all States/Union Territories.
8. Secretary General Rajya Sabha Secretariat, New Delhi.
9. Secretary General, Lok Sabha Secretariat, New Delh.
10. Pr. Adviser (Admn & PC)/AC & FA/Adviser (C & I)/Director (GA)/DS(Admn.).
11. Pay & Accounts Officers, Planning Commission.
12. Drawing & Disbursing Officer, Planning Commission.
13. Accounts - I Section Planning Commission.

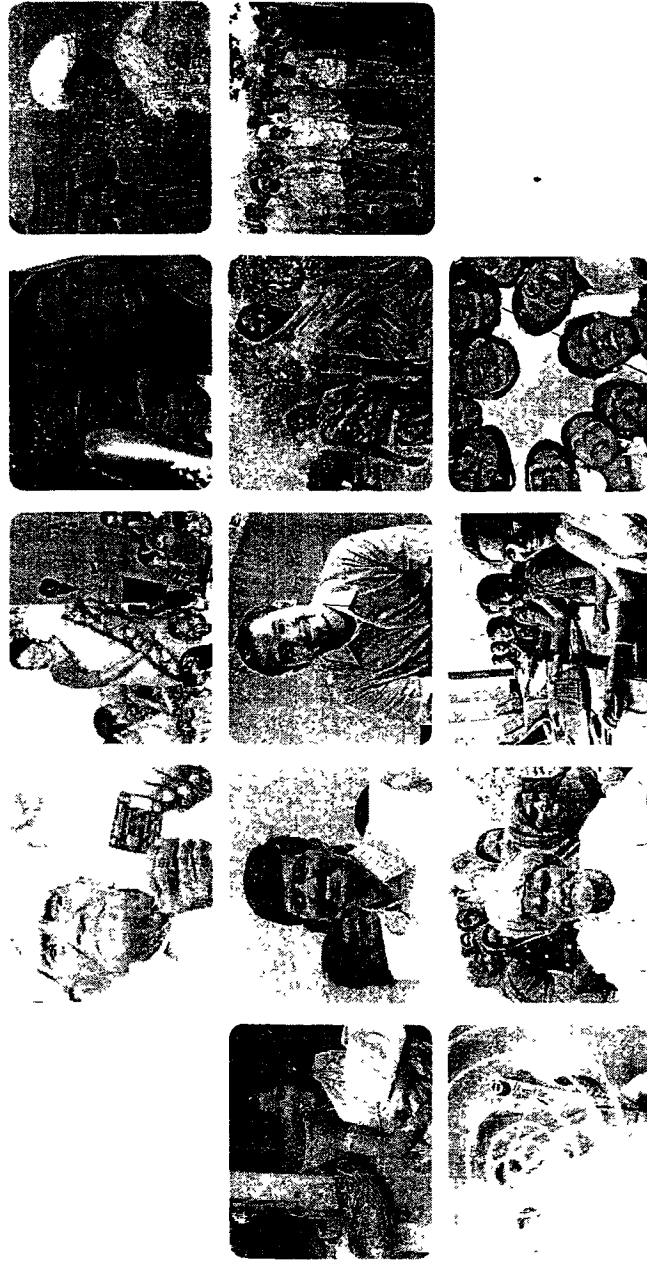
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DT: N/L

UIDAI STRATEGY OVERVIEW

CREATING A UNIQUE IDENTITY NUMBER FOR
EVERY RESIDENT IN INDIA



Unique Identification Authority of India (UIDAI)
Planning Commission, Govt. of India
April, 2010

Unique Identification Authority of India Strategy Overview

Executive Summary

Overview

In India, an inability to prove identity is one of the biggest barriers preventing the poor from accessing benefits and subsidies. Public as well as private sector agencies across the country typically require proof of identity before providing individuals with services. But till date, there remains no nationally accepted, verified identity number that both residents and agencies can use with ease and confidence.

As a result, every time an individual tries to access a benefit or service, they must undergo a full cycle of identity verification. Different service providers also often have different requirements in the documents they demand, the forms that require filling out, and the information they collect on the individual.

Such duplication of effort and 'identity silos' increase overall costs of identification, and cause extreme inconvenience to the individual. This approach is especially unfair to India's poor and underprivileged residents, who usually lack identity documentation, and

find it difficult to meet the costs of multiple verification processes.

There are clearly, immense benefits from a mechanism that uniquely identifies a person, and ensures instant identity verification. The need to prove identity only once will bring down transaction costs for the poor. A clear identity number would also transform the delivery of social welfare programs by making them more inclusive of communities now cut off from such benefits due to their lack of identification. It would enable the government to shift from indirect to direct benefits, and help verify whether the intended beneficiaries actually receive funds/subsidies.

A single, universal identity number will also be transformational in eliminating fraud and duplicate identities, since individuals will no longer be able to represent

themselves differently to different agencies. This will result in significant savings to the state exchequer.

The UIDAI - evolving an approach to identity

The Government of India undertook an effort to provide a clear identity to residents first in 1993, with the issue of photo identity cards by the Election Commission.

Subsequently in 2003, the Government approved the Multipurpose National Identity Card (MNIC).

The Unique Identification Authority of India (UIDAI) was established in January 2009, as an attached office to the Planning Commission. The purpose of the UIDAI is to issue a unique identification number (UID) to all Indian residents that is (a) robust enough to eliminate duplicate and fake identities, and (b) can be verified and authenticated in an easy, cost-effective way. The UIDAI's approach will keep in mind the learnings from the government's previous efforts at issuing identity.

The UIDAI will be created as a statutory body under a separate legislation to fulfill its objectives. The law will also stipulate rules, regulations, processes and protocols to be followed by different agencies partnering with the UIDAI in issuing and verifying unique identity numbers.

Features of the UIDAI model

The Unique identification number (UID) will only provide identify : The UIDAI's will purview be limited to the issue of unique identification numbers linked to a person's demographic and biometric information. The UID will only guarantee identity, not rights, benefits or entitlements.

The UID Will prove identity, not citizenship : All residents in the country can be issued a unique ID. The UID is proof of identity and does not confer citizenship.

A Pro-Poor approach : The UIDAI envisions full enrolment of residents, with a focus on enrolling India's poor and underprivileged communities. The Registrars that the UIDAI plans to partner with – the NREGA, RSBY, and PDS – will help bring large numbers of the poor and underprivileged into the UID system. The UID method of authentication will also improve service delivery for the poor.

Enrolment of residents with proper verification : Existing identity databases in India are fraught with problems of fraud and duplicate/ghost beneficiaries. To prevent this from seeping into the UIDAI database, the UIDAI plans to enrol residents into its database with proper verification of their demographic and biometric information. This will ensure that the data collected is clean from the start of the program.

However, much of the poor and underserved population lack identity documents and the UID may be the first form of identification they have access to. The UIDAI will ensure that the Know Your Resident (KYR) standards

don't become a barrier for enrolling the poor, and will devise suitable procedures to ensure their inclusion without compromising the integrity of the data.

A partnership model : The UIDAI approach leverages the existing infrastructure of government and private agencies across India. The UIDAI will be the regulatory authority managing a Central Identities Data Repository (CIDR), which will issue UIDs, update resident information, and authenticate the identity of residents as required.

In addition, the UIDAI will partner with agencies such as central and state departments and private sector agencies who will be 'Registrars' for the UIDAI. Registrars will process UID applications, and connect to the CIDR to de-duplicate resident information and receive UID numbers. These Registrars can either be enrollers, or will appoint agencies as enrollers, who will interface with people seeking UID numbers. The Authority will also partner with service providers for authentication.

The UIDAI will emphasize a flexible model for Registrars : the Registrars will retain significant flexibility in their processes, including issuing cards, pricing, expanding KYR (Know Your Resident) verification, collecting

demographic data on residents for their specific requirements, and in authentication. The UIDAI will provide standards to enable Registrars maintain uniformity in collecting certain demographic and biometric information, and in basic KYR. These standards have been finalized by the Demographic Data Standards and Verification Procedures Committee and Biometric Standards Committees which was constituted by the UIDAI constituted.

Enrolment will not be mandated : The UIDAI approach will be a demand-driven one, where the benefits and services that are linked to the UID will ensure demand for the number. This will not however, preclude governments or Registrars from mandating enrolment.

The UIDAI will issue a number, not a card : The UIDAI's role is limited to issuing the number. This number may be printed on the document/card that is issued by the Registrar.

The number, will not contain intelligence : Loading intelligence into identity numbers makes them susceptible to fraud and theft. The UID will be a random number.

The UIDAI will only collect basic information on the residing : The UIDAI will seek the following demographic and biometric information in order to issue a UID number:

- Name
- Date of birth
- Gender
- Father's/ Husband's/ Guardian's name and UID number (optional for adult residents)
- Mother's/ Wife's/ Guardian's name and UID number (optional for adult residents)
- Introducer's name and UID number (in case of lack of documents)
- Address
- All ten fingerprints, photograph and both iris scans

Registrars will send the applicant's data to the CIDR for de-duplication. The CIDR will perform a search on key demographic fields and on the biometrics for each new enrolment, to ensure that no duplicates exist.

The incentives in the UID system are aligned towards a self-cleaning mechanism. The existing patchwork of multiple databases in India gives individuals the incentive to provide different personal information to different agencies. Since de-duplication in the UID

system ensures that residents have only one chance to be in the database, individuals will provide accurate data. This incentive will become especially powerful as benefits and entitlements are linked to the UID.

Online authentication : The UIDAI will offer a strong form of online authentication, where agencies can compare demographic and biometric information of the resident with the record stored in the central database. The Authority will support Registrars and agencies in adopting the UID authentication process, and will help define the infrastructure and processes they need.

The UIDAI will not share resident data : The UIDAI envisions a balance between 'privacy and purpose' when it comes to the information it collects on residents. The agencies may store the information of residents they enrol if they are authorized to do so, but they will not have access to the information in the UID database. The UIDAI will answer requests to authenticate identity only through a 'Yes' or 'No' response

Technology will undergird the UIDAI system : Technology systems will have a major role across the UIDAI infrastructure. The UID database will be stored on a central server. Enrolment of the resident will be

computerized, and information exchange between Registrars and the CIDR will be over a network. Authentication of the resident will be online. The Authority will also put systems in place for the security and safety of information.

Benefits

For residents : The UID will become the single source of identity verification. Once residents enrol, they can use the number multiple times – they would be spared the hassle of repeatedly providing supporting identity documents each time they wish to access services such as obtaining a bank account, passport, driving license, and so on.

By providing a clear proof of identity, the UID will also facilitate entry for poor and underprivileged residents into the formal banking system, and the opportunity to avail services provided by the government and the private sector. The UID will also give migrants mobility of identity.

For Registrars and enrollers : The UIDAI will only enrol residents after de-duplicating their records. This will help Registrars clean out duplicates from their databases, enabling significant efficiencies and cost savings. For Registrars focused on cost, the UIDAI's verification

processes will ensure lower KYR costs. For Registrars focused on social goals, a reliable identification number will enable them to broaden their reach into groups that till now, have been difficult to authenticate. The strong authentication that the UID number offers will improve services, leading to better resident satisfaction.

For Government : Eliminating duplication under various schemes is expected to save substantial money for the government exchequer. It will also provide governments with accurate data on residents, enable direct benefit programs, and allow government departments to coordinate investments and share information.

Revenue Model

By providing identity authentication, the UIDAI will be taking on a process that costs agencies and service providers hundreds of crores every year. The Authority will evolve suitable policies on the issue of charging a fee for its authentication services, which will offset its long-term costs. Registrars and service providers will also be able to charge for the cards they issue residents with the UID number. Such pricing will be within UIDAI guidelines.

Time lines

The UIDAI will start issuing UIDs between August 2010 and February 2011, and plans to cover 600 million people within 4 years from the start of the issuing of the first set of UIDs. This can be accelerated if more Registrars partner with the UIDAI for both enrolment and authentication. The adoption of UIDs is expected to gain momentum with time, as the number establishes itself as the most accepted identity proof in the country.

Conclusion

India will be the first country to implement a biometric-based unique ID system for its residents on such a large scale. The UID will serve as a universal proof of identity, allowing residents to prove their identity anywhere in the country. It will give the government a clear view of India's population, enabling it to target and deliver services effectively, achieve greater returns on social investments, and monitor money and resource flows across the country.

The timing of this initiative is encouraging – the creation of the UIDAI coincides with growing social investment in India, a shift in focus to direct benefits, and with the spread of IT and mobile phones, which has made the public receptive to technology-based solutions. The UIDAI

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is committed to making this project a success. An initiative of this magnitude will also require the active participation of central, state and local governments, as well as public and private sector agencies across the country. With their support, the project will help realize a larger vision of inclusion and development for India.

Conf

Introduction and historical background

A crucial factor that determines an individual's well-being in a country is whether their identity is recognized in the eyes of the government. Weak identity limits the power of the country's residents when it comes to claiming basic political and economic rights. The lack of identity is especially detrimental for the poor and the underprivileged, the people who live in India's "social, political and economic periphery". Agencies in both the public and private sector in India usually require a clear proof of identity to provide services. Since the poor often lack such documentation, they face enormous barriers in accessing benefits and subsidies.

For governments and individuals alike, strong identity for residents has real economic value. While weak identity systems cause the individual to miss out on benefits and services, it also makes it difficult for the government to account for money and resource flows across a country. In addition, it complicates government efforts to account for residents during emergencies and security threats.

However in India, the goal of issuing a universally used, unique identity number to each resident poses a significant challenge. A project of this scale has not been

attempted anywhere in the world, and requires an innovative model, distinct from what we have witnessed in identity systems so far anywhere in the world.

1.1 Historical background and evolution of the UIDAI project

The Unique identification project was initially conceived by the Planning Commission as an initiative that would provide a clear and unique identity number for each resident across the country and would be used primarily as the basis for efficient delivery of welfare services. It would also act as a tool for effective monitoring of various programs and schemes of the Government.

The concept of unique identification was first discussed and worked upon since 2006 when administrative approval for the project –“Unique ID for BPL families” was given on March 3rd, 2006 by the Department of Information Technology, Ministry of Communications and Information Technology. This project was to be implemented by the NIC over a period of 12 months. Subsequently, a Processes Committee to suggest processes for updation, modification, addition and deletion of data fields from the core data base to be

created under the Unique ID for BPL families Project was set up on July 3rd, 2006.

A "Strategic Vision on the UID Project" was prepared and submitted to this Committee. It envisaged the close linkage that the UID would have to the electoral database. The Committee also appreciated the need of a UID Authority to be created by an executive order under the aegis of the Planning Commission to ensure a pan-departmental and neutral identity for the Authority and at the same time enable a focused approach to attaining the goals set for the XI Plan. The Seventh Meeting of the Process Committee on 30th August 2007 decided to furnish to the Planning Commission a detailed proposal based on the resource model for seeking its "in principle" approval.

At the same time, the Registrar General of India was engaged in the creation of the National Population Registrar and issuance of Multi-purpose National Identity Cards to citizens of India.

Therefore, it was decided, with the approval of the Prime Minister, to constitute an Empowered Group of Ministers (EGoM) to collate the two schemes - the National Population Register under the Citizenship Act, 1955 and

the Unique Identification Number project of the Department of Information Technology. The EGoM was also empowered to look into the methodology and specific milestones for early and effective completion of the Project and take a final view on these. The EGoM was constituted on December 4th, 2006.

The first meeting of the EGoM was held on November 27th, 2007. It recognised the need for creating an identity related resident database, regardless of whether the database is created based on a de-novo collection of individual data or is based on already existing data such as the voter list. It also recognised that there is a crucial and imperative need to identify and establish an institutional mechanism that will "own" the database and will be responsible for its maintenance and updating on an ongoing basis, post its creation.

The second meeting of the EGoM was held on January 28th, 2008. It decided on the strategy for the collation of NPR and UID. Inter-alia, the proposal to establish UID Authority under the Planning Commission was approved.

The third meeting of the EGoM was held on August 7th, 2008. The Planning Commission had placed before the EGoM a detailed proposal for setting up the UIDAI. The

meeting decided that certain issues raised by the members with relation to the UIDAI would need to be examined by an official level committee. It referred the matter to a Committee of Secretaries to examine and give its recommendations to the EGoM to facilitate a final decision.

Subsequent to the Committee of Secretaries recommendations, the forth the meeting of the EGom was held on November 4th, 2008. The recommendations of the Committee of Secretaries was presented to the EGoM and the following decisions were taken:

- a) Initially the UIDAI may be notified as an executive authority, and investing it with statutory authority could be taken up for consideration later at an appropriate time.
- b) UIDAI may limit its activities to the creation of the initial database from the electoral roll/EPIC data. UIDAI may however additionally issue instructions to agencies that undertake creation of databases to ensure standardization of data elements.
- c) UIDAI will take its own decision as to how to build the database.

- d) UIDAI would be anchored in the Planning Commission for five years after which a view would be taken as to where the UIDAI would be located within Government.
- e) Constitution of the UIDAI with a core team of 10 personnel at the central level and directed the Planning Commission to separately place a detailed proposal with the complete structure, rest of staff and organizational structure of UIDAI before the Cabinet Secretary for his consideration prior to seeking approval under normal procedure through the DoE/CCEA.
- f) Approval to the constitution of the State UID Authorities simultaneously with the Central UIDAI with a core team of 3 personnel.
- g) December 2009 was given as the target date for UID to be made available for usage by an initial set of authorized users.
- h) Prior to seeking approval for the complete organizational structure and full component of staff through DoE and CCEA as per existing procedure, the Cabinet Secretary should convene a meeting to finalize the detailed

organizational structure, staff and other requirements.

1.1. Subsequently, on January 22nd, 2009 the Cabinet Secretary in pursuance of the decisions of the Empowered Group of Ministers considered the proposal submitted by the Department of Information Technology regarding the governance structure and recommended that

- a) The notification for constitution of the UIDAI should be issued immediately.
- b) A High Level Advisory, Monitoring and Review Committee headed by Deputy Chairman, Planning Commission to be constituted to oversee the work of the authority.
- c) A Member, Planning Commission or the Secretary, Planning Commission may be also assigned the task of looking after the work proposed of the Chief UID Commissioner.
- d) Core Team to be put in place.

In pursuance of the Empowered group of Ministers' fourth meeting dated November 4th, 2008, the was constituted and notified by the Planning Commission on January 28th, 2009 as an attached office under the aegis of Planning Commission with an initial core team of 115

officials. The role and responsibilities of the UIDAI was laid down in this notification. The UIDAI was given the responsibility to lay down plan and policies to implement UID scheme, and shall own and operate the UID database and be responsible for its updation and maintenance on an ongoing basis.

Subsequently on July 2nd, 2009 Shri Nandan Nilekani was appointed as the Chairman of the UIDAI. Shri Nilekani assumed charge on 23rd July, 2009 and since then the UIDAI has started functioning.

The Prime Minister's Council on UID Authority was constituted on 30th July, 2009 and its first meeting had taken place on 12th August, 2009. The Council endorsed the broad approach submitted by the UIDAI.

Subsequently, the Government constituted a Cabinet Committee on Unique Identification Authority of India vide its order no 1/11/6/2009 dated 22nd October, 2009. The functions of this Committee, as per this notification are: All issues relating to the Unique identification Authority of India including its organisation, plans, policies, programmes, schemes, funding and methodology to be adopted for achieving the objectives of that Authority.

1.2 The UIDAI approach

In 2007, the Planning Commission had recommended an approach to issuing unique identification numbers, where the enrolment into a Unique Identification (UID) database could be speeded up by using existing resident records in the databases of the Election Commission, PAN etc. This approach would speed up enrolment for those residents present in one of the aforementioned databases. These databases however, may contain inaccuracies.

The model envisioned by the Unique Identification Authority of India (UIDAI) takes into account the inputs of the Planning Commission, as well as learnings from the previous approaches to identity. The detailed approach and the model of implementation is explained in subsequent chapters.

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